SUPREME COURT OF THE UNITED STATES.

No. 163.

CHARLES P. GOODALL, PLAINTIFF IN ERROR,

vs.

JOSEPH W. TUCKER, EXECUTOR OF ABNER ROBINSON, DECEASED.

IN ERROR TO THE CIRCUIT COURT, UNITED STATES, FOR THE EASTERN DISTRICT OF [illegible].

INDEX.

	Original.	Print.
Petition	1	1
Answer	3	2
Extract from the minutes, (trial commenced)	4	3
Extract from the minutes, petition amended	4	4
Bill of exceptions	5	4
Judgment (for plaintiff)	6	5
Motion for new trial	6	5
Motion for new trial taken under advisement	6	6
New trial awarded	7	6
Notice of trial and marshal's return	7	6
Order (from the minutes) assigning the cause for trial	8	7
Plea of prescription	8	7
Supplemental answer	8	7
Order of continuance (by consent)	8	7
Supplemental answer filed by leave of court	9	9
Cause submitted to the court and taken under advisement	10	9
Admissions made on the trial	11	9
Final judgment	12	10
Bill of exceptions (extended from page 13 to page 63.)		
memorandum of evidence	13	11
copy of record, Goodall vs. Robinson's executor	14	12
depositions of Lyons and Tait	18	15
documents annexed to depositions	22	19
depositions of Lyons, Carter, and Puckett, and documents	24	20

Gideon, print.

	Original.	Print.
Bill of exceptions, deposition of Lyons and documents - -	29	24
record from 2d district court of New Orleans -	46	39
certificate of discharge of Isham Puckett, in bankruptcy - - - - - - -	60	53
closing paragraphs of the bill of exceptions -	61	54
Petition for a writ of error - - - - - -	64	56
Order of court allowing writ of error to issue - - - -	64	57
Bond - - - - - - - - - -	65	57
Certificates of authentication of this transcript - - - -	66	58
Citation and service - - - - - - - -	67	59
Writ of error - - - - - - - - -	69	59

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

CHARLES P. GOODALL, for use of N. P. Hill,
vs.
JOSEPH W. TUCKER, executor, &c. } No. 1682.

Pleas and proceedings before the honorable the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, being the April term, 1850, of the said court, held at the city of New Orleans, in the district aforesaid, on the 13th day of June, A. D. 1850.

Be it remembered, that, on the 29th day of February, A. D. 1848, the plaintiff, by his attorney, Robert Mott, esqr.,-came and filed in the clerk's office of said court a petition, which is in the words and figures following, to wit:

Petition.

To the honorable the United States circuit court, for the fifth circuit and district court of Louisiana:

The petition of Chas. P. Goodall, who resides in the city of Richmond, and is a citizen of the State of Virginia, who sues for the use of, and benefit of, Nathaniel B. Hill, also a resident of Richmond, and is a citizen of the State of Virginia, respectfully represents, that Joseph W. Tucker, residing in the parish of Lafourche Interior, a citizen of the State of Louisiana, is justly and truly indebted to petitioner in the full sum of four thousand nine hundred and twenty-six $\frac{3}{100}$ dollars, with interest thereon at the rate of six per cent. per annum, from the 6th day of September, 1839, until paid, and eight $\frac{75}{100}$ dollars costs of court, for this, to wit:

That on the first day of August, 1843, petitioner recovered before the justices of the peace holding court for the county of Henrico, in the court-house thereof, a judgment for the sum of four thousand nine hundred and twenty-six $\frac{3}{100}$ dollars, with interest and costs as aforesaid, against Joseph Allen and William R. Johnson, testamentary executors of Abner Robinson, deceased, by his last will and testament appointed, all of which will more fully appear by the duly certified transcript of the record of said judgments, hereto annexed for reference.

That by the will of said Abner Robinson he nominated and appointed four executors, (to wit,) viz., Joseph Allen and William R. Johnson, residing in Virginia, and Joseph W. Tucker and Thomas Pugh, residing in Louisiana; the said Allen and Johnson duly qualified, took possession of the estate of said Robinson, situated in the State of Virginia, and have fully administered the same, and there are no funds there with which petitioner can be paid.

That Joseph W. Tucker qualified as executor under said will in

the probate court for the parish of Lafourche Interior, and is now in possession of a large amount of property belonging to said estate, consisting of plantations and slaves, houses and lots, &c., &c., which are amply sufficient to pay all the debts due by the said estate.

That petitioner has presented his said claim to the said Joseph W. Tucker, and requested him to acknowledge the same as a debt due by the said estate, and amicably demanded payment of the same; both of which were refused by the said Tucker.

That the debt on which the aforesaid judgment was obtained was, and is, a good and subsisting claim and debt against the said Abner Robinson, and against his said executor, being upon a bond or bill single, dated the 6th of September, 1839, for the sum of four thousand nine hundred and twenty-six $\frac{1}{100}$ dollars, payable on demand, which said obligation was signed and executed by Abner Robinson, Isham Puckett, and James P. Wilkinson, and which was executed in the State of Virginia, by the laws of which State each of the said obligors was liable in solido for the whole amount thereof, all of which will be more fully seen from the duly certified transcript of the said record filed herewith.

Wherefore petitioner prays that the said J. W. Tucker, executor as aforesaid, be cited and condemned to pay petitioner the aforesaid sum of four thousand nine hundred and twenty-six $\frac{1}{100}$ dollars, and interest and costs as aforesaid, out of the property and money in his hands belonging to the succession of the said Abner Robinson, deceased, and for general relief, &c. ROBT. MOTT, *Attorney.*

And afterwards, to wit, on the 28th day of June, A. D. 1848, judgment by default was rendered in this case entered of record in the minutes, as follows:

CHARLES P. GOODALL
vs.
JOSEPH W. TUCKER, ex'r, &c. } No. 1682.

On motion of Robert Mott, esq'r, of counsel for the plaintiff, and it appearing to the satisfaction of the court that the defendant has been duly cited by accepting service of the petition and waiving citation, and the said defendant failing to appear and plead, it is therefore ordered, adjudged, and decreed, that a judgment by default be entered against said defendant.

And afterwards, to wit, on the 14th Nov., 1848, the defendant, by his attorneys, Janin and Taylor, esq'rs, filed herein an answer to plaintiff's petition, as follows:

UNITED STATES OF AMERICA,
5th circuit court, district of Louisiana.

CHARLES P. GOODALL
vs.
JOSEPH W. TUCKER, ex'r of Abner Robinson. }

To the honorable the circuit court of the United States, for the fifth circuit, sitting in and for the district of Louisiana:

The answer of Joseph W. Tucker, residing in the parish of Lafourche Interior, State of Louisiana, executor of the last will and testament of Abner Robinson, deceased, respectfully represents:

That he denies all and singular the allegations in plaintiff's petition contained, with the exception of what may be hereinafter specially admitted.

Your respondent further answering says, that the judgment set forth in plaintiff's petition, was rendered in the State of Virginia, in a proceeding to which he, respondent, was not a party, and the same is without force or effect as to him in his capacity of executor as aforesaid, and that the same is not in any manner binding on the succession of the said Abner Robinson, existing in the State of Louisiana.

Your respondent further says, that the obligation sued on in the State of Virginia, and which is alleged to have been executed by the said Abner Robinson, with Isham Puckett & J. P. Wilkinson, is a joint obligation, and that if the said Abner Robinson did, in truth, join in the execution of the same, (of which respondent has no knowledge, and requires strict proof,) he became and was in law bound for the payment of one-third only of the sum and interest specified therein, and no more.

Your respondent further says, that the said Abner Robinson, at his decease, left a considerable amount of property in the State of Virginia, and that in the premises plaintiff having, as he alleges, already obtained a judgment against his succession; he, the said plaintiff, is without any right of action against the succession of the said Robinson, in this State, until the said property left by him in the State of Virginia has been fully administered, which respondent now avers it not yet to have been.

Wherefore respondent prays that the claim of plaintiff may be rejected, and he hence dismissed with his costs. Respondent further prays for all and general the relief he may be entitled to in law or equity, or that the nature of his case may require.

JANIN & TAYLOR,
Attorneys for defendant.

And afterwards, to wit, on the 14th day of May, A. D. 1849, the following entry was made of record in the minutes:

CHARLES P. GOODALL
vs. } 1682.
J. W. TUCKER, ex'r, &c.

This cause having been assigned for trial for this day, was called up; Thomas J. Durant, esq., appearing for plaintiff, and Miles Taylor, esq., for defendant, and the case was opened and proceeded with until two o'clock, p. m.; whereupon the court ordered that the case be continued until to-morrow morning, at 10 o'clock, a. m.

And afterwards, to wit, on the 15th day of May, A. D. 1849, the following entry was made of record in the minutes:

CHAS. P. GOODALL
vs.
J. W. TUCKER, exec'r, &c. } 1682.

This case being continued from yesterday, was this day resumed, both parties appearing by their counsel. During the trial of the cause, on motion of T. J. Durant, esq., of counsel for plaintiff, and on his showing to the satisfaction of the court that the word "Louisiana" was erroneously inserted in his petition, instead of the word Virginia: Ordered that it be stricken out, and the word Virginia be substituted. The counsel of the defendant being called upon by the court to answer immediately the petition as amended, declined answering; whereupon, after the introduction of evidence and argument of counsel, the case was submitted to the court and taken under advisement.

Note.—See bill of exceptions on page 5 of this transcript.

Bill of exceptions, filed 15th May, 1849.

CHAS. P. GOODALL
vs.
J. W. TUCKER, executor of A. Robinson.

U. S. circuit court, district of Louisiana.

Be it remembered, that, on the trial of this case, the plaintiff offered the depositions of James Lyons and Bacon Tait, taken de bene esse on the 16th day of December, 1848, in the State of Virginia, to prove that the obligation described in his petition is a bond or bill single, dated the 6th of September, 1839, for the sum of four thousand nine hundred and twenty-six $\frac{17}{100}$ dollars, payable on demand, and said to be signed by the decedent, Abner Robinson, Isham Pickett, and James P. Wilkinson, and was executed in Virginia; that the defendant, by his counsel, objected to the introduction of said deposition, on the ground that the petition declared and alleged that the said obligation was executed in Louisiana; that thereupon the plaintiff moved for leave to amend his petition by striking out the word "Louisiana" and substituting therefor the word "Virginia;" that the defendant opposed said amendment, unless the case was continued and service made on him of the said amendment when made; that the counsel of plaintiff having stated to the court that the word "Louisiana" had been, by mistake, put for "Virginia," by a clerical error, the court allowed plaintiff to amend his petition, and that the said amendment was made by erasing the word "Louisiana," from the petition, and substituting therefor the word "Virginia;" that thereupon defendant, by his counsel, moved that the case should be continued, and that the petition, as amended, should be served on defendant, and time given him to answer the same, on

the ground that the said amendment altered the substance of plaintiff's claim, as made in the petition originally filed and served on the defendant, inasmuch as the obligation described would have made the decedent responsible only for one-third of the amount specified in it, whilst he might be responsible for the whole amount, if it were executed in Virginia, and that it changed the issue between the parties; that the court refused to continue the case or to direct the service of the amended petition or amendment to be made on the defendant; that the defendant, by his counsel, then moved for time to answer, and that the court refused the same; that the defendant, by his counsel, was then required by the court to answer at once, and that he declined so to do, and that the trial was then ordered to proceed. To all which ruling of the court the defendant, by his counsel, excepted, and tendered this his bill of exceptions, (after having submitted the same to the opposite or adverse party,) and prayed that the same might be signed in open court, which is accordingly done.

THEO. H. McCALEB, [SEAL.]
U. S. judge.

And afterwards, to wit, on the 13th day of November, A. D. 1849, a final judgment was rendered and entered in the minutes, as follows:

CHARLES P. GOODALL
vs.
JOS. W. TUCKER, executor of Abner Robinson, deceased. } No. 1682.

The court having maturely considered the case submitted, and the proofs offered by the plaintiff establishing his claim, it is ordered, adjudged, and decreed, that Charles P. Goodall recover of Joseph W. Tucker, executor of the estate of Abner Robinson, deceased, the sum of four thousand nine hundred and twenty-six $\frac{4}{100}$ dollars, with interest, at the rate of six per cent. per annum, from the 6th of September, 1839, until paid, and costs to be taxed; the said sum to be paid out of the estate of Abner Robinson, deceased, in the hands of said executor.

And on the 15th day of November, A. D. 1849, the following order was made and entered of record in the minutes:

CHARLES P. GOODALL, for the use of N. P. Hill,
vs.
J. W. TUCKER, executor, &c. } 1682.

On motion of Janin & Taylor, of counsel for the defendant in this case, it is ordered that the plaintiff show cause, on Saturday, the first day of December next, at 12 o'clock, m., why a new trial should not be granted in this case, on the ground that the judgment rendered therein is contrary to law and evidence.

And on the 1st day of December, 1849, the rule and motion for a new trial was submitted, and an entry thereof was made in the minutes, as follows:

CHARLES P. GOODALL, for use of W. P. Hill,
vs. } 1682.
J. W. TUCKER, executor, &c.

The rule taken in this case, to show cause why a new trial should not be granted, being returnable this day, was called up for hearing, when, after argument of counsel, the same was submitted to the court, and taken under advisement.

And on the 31st day of December, A. D. 1849, an order granting a new trial was made by the court and entered on the minutes, as follows:

CHAS. P. GOODALL
vs. } 1682.
J. W. TUCKER, executor, &c.

The rule herein taken on plaintiff, to show cause why a new trial should not be granted on the grounds filed, having been argued and submitted at a former day, and the court having considered the same, doth now order that the said rule be made absolute, and that a new trial be awarded.

Notice of trial.

United States circuit court, for the fifth judicial circuit and eastern district of Louisiana.

C. P. GOODALL
vs. } 1682.
J. W. TUCKER, executor, &c.

You are hereby notified that this case is set down to be tried on *on* Thursday, the 4th day of April, A. D. 1850, at 10 o'clock, a. m.

By order of court.

Witness my hand and the seal of the court, this 23d day of March, A. D. 1850, and of the independence of the United States the seventy-fifth.

[SEAL.]

J. W. GURLEY, *Clerk.*

TO JANIN & TAYLOR, esqrs.

Marshal's return on the above notice.

Received March 23d, 1850, and on the same day served notice of trial on M. Taylor, esq., one of the firm of Janin & Taylor, by handing the same to him in person, at New Orleans, and returned.

N. W. BUTLER,
Dep'y U. S. marshal.

And on the 23d day of March, 1850, the cause was set for trial, and the order thereof was entered of record in the minutes, as follows:

CHAS. P. GOODALL
vs. } 1682.
J. W. TUCKER, executor, &c.

On motion of Robt. Mott, esq., attorney for plaintiff, it is ordered that this cause be assigned for trial for Thursday, the 4th of April, and that defendant be notified thereof.

Plea of prescription, filed April 3d, 1850.

CHARLES P. GOODALL, for the use of N. B. Hill,
vs.
J. W. TUCKER, executor of Abner Robinson.

U. S. circuit court, eastern district of Louisiana.

To the honorable the circuit court of the United States, sitting in and for the eastern district of Louisiana.

The supplemental answer of Joseph W. Tucker, testamentary executor of Abner Robinson, deceased, to the petition against him filed in the above entitled case, respectfully represents: That the plaintiff's right of action upon the instrument sued on is barred by the prescription of five years; wherefore he prays that the plaintiff's claim may be rejected, and he hence dismissed, with his costs.

JANIN & TAYLOR,
Attorneys for defendant.

And on the 5th day of April, 1850, an order of continuance was made and entered in the minutes, as follows:

C. P. GOODALL
vs.
J. W. TUCKER, executor, &c. } 1682.

On motion of Miles Taylor, esq., and with consent of the plaintiff's counsel, it is ordered that this cause be continued to the next term.

Supplemental answer, filed 15th April, 1850.

CHAS. P. GOODALL, for the use of Nat. B. Hill,
vs.
JOSEPH W. TUCKER, executor. } 1682.

U. S. circuit court, eastern district of Louisiana.

To the honorable the United States' circuit court, in and for the eastern district of Louisiana.

The supplemental answer of Joseph W. Tucker, to the petition against him filed in the above entitled case, respectfully represents: That James P. Wilkinson, one of the joint obligors of the obligation sued on, departed this life, instituting his wife Catherine his heir and universal legatee, bequeathing and devising to her his whole estate by his last will and testament; that she, the said Catherine, accepted of the said bequest and devise, and entered into possession of the property

left by the said Wilkinson, and administered on said estate, and that she became, in law, bound upon said obligation, in the same manner as the said Wilkinson.

Respondent further represents, that the said Catherine, the heir and universal legatee of J. P. Wilkinson, contracted a second marriage with the said Nathaniel B. Hill, the beneficiary party in interest, as plaintiff in this suit; that by said marriage the said Hill became liable and bound for the debts due by his said wife, the heir and universal legatee of said Wilkinson; and that, in the premises, the said Hill being, in law, a debtor of one-half of the said obligation, and having the equitable and beneficiary title thereto vested in him, the one-half of the said obligation is extinguished by confession. Wherefore the defendant prays, that the claim of plaintiff for the one-half of said obligation may be rejected, and for general relief.

JANIN & TAYLOR,
Attorneys for defendant.

Endorsement on the above: "Let this be filed.

THEO. H. McCALEB,
United States' judge.

"Filed 15th April, 1850.

J. W. GURLEY, *Clerk.*"

Supplemental answer, filed April 22, 1850.

CHARLES P. GOODALL,
for the use of N. B. Hill,
vs.
JOSEPH W. TUCKER, ex.

United States' circuit court, E. D. of Louisiana.

To the honorable the circuit court of the United States, in and for the eastern district of Louisiana.

The supplemental answer of Joseph W. Tucker, testamentary executor of the last will of Abner Robinson, deceased, respectfully represents: That, from information just received from Virginia, he verily believes that the bond sued on in this case was, in part, paid by Abner Robinson, or by the appropriation, in part payment thereof, of the proceeds of the sale of property belonging to the said Abner Robinson, upon which he, the said Robinson, had given deeds of trust; that he does not know the dates or amounts of the payments made on the said bond on the account of the said Robinson; but that he is informed and verily believes, that there was a balance of only twenty-seven hundred dollars left due on the said bond; that this balance of twenty-seven hundred dollars was the only amount paid by the said N. B. Hill, for whose use this bond is sued on; and that in no event could he be entitled to recover more than the said balance remaining due, if entitled to recover at all any thing on the said bond, which he specially denies.

Wherefore your respondent prays, as he has before prayed, that plaintiff's claim be rejected.

JANIN & TAYLOR,
Attorneys for defendant.

Endorsed: "Filed by order of court, this 22d April, A. D. 1850.
J. W. GURLEY, *Clerk.*

And on the 22d April, A. D. 1850, the following order was entered on the minutes:

C. P. GOODALL,
for use of N. B. Hill,
vs.
JOSEPH W. TUCKER, ex. } 1682.

On motion of Janin and Taylor, esqs., it is ordered, that defendant have leave to file a supplemental answer herein.
(See the foregoing supplemental answer.)

And on Monday, the 20th May, A. D. 1850, the following entry of submission of the cause was made on the minutes:

CHARLES P. GOODALL,
vs.
J. W. TUCKER, ex'r, &c. } 1682.

This cause, having been assigned for this day, came on to be heard, when, after argument of counsel, the same was submitted to the court and taken under advisement.

Admission made on trial, and filed 20th May, 1850.

CHARLES P. GOODALL
vs.
J. W. TUCKER, exr., &c.

Plaintiff admits that from the Chesterfield sales, and the Coles Hill in Hanover, by the trustees and other credits, the balance due on the judgment mentioned in the petition was twenty-four hundred and nine dollars and ninety cents, with interest thereon from the 14th day of January, 1846, that being the day when the $1,433 was made from the Coles Hill in Hanover; that sum was not in fact paid to Goodall by the trustee till the 7th February, 1846, but as his trustee got that sum on the 14th January, 1846, on the application of it as a credit, it was allowed as credit of the date of 14th January, 1846. So the whole balance claimed to be due on this record is $2,409 90, with interest from the 14th January, 1846.

MOTT & OGDEN & DUNCAN,
Attorneys for plaintiff.

Admission made on trial, and filed 20th May, 1850.

GOODALL
vs.
TUCKER, exr. of Robinson. } 1682.

In this case it is admitted that the estate of Robinson in the hands of his executor, Tucker, in Louisiana, is amply sufficient to pay all debts against the testator, and that, on the 3d December, 1837, C. P. Goodall made to Nath'l B. Hill an assignment in these words, "for value received of Mr. Nathaniel B. Hill, I hereby assign and transfer the within judgment and all benefits from it to him, with authority to sue upon the said judgment in his own name, as assignee, or in any name for his benefit, but this assignment is not to render me individually or in any wise responsible for the debts if Mr. N. B. Hill fails to make it out of the debtors or their estates. Abner Robinson was in fact the principal debtor."

"Herewith annexed is the copy of a bond on which said judgment was obtained, and the several credits that should be given thereon."

"Given under my hand and seal at the city of Richmond, Va., this third day of December, eighteen hundred and forty-seven."

"C. P. GOODALL. [SEAL.]"

DUNCAN, *Plaintiff,*
JANIN & TAYLOR, *for Deft.*

And on the 13th day of June, A. D. 1850, final judgment was rendered in this case and entered on the minutes, and recorded in the judgment docket in the words and figures following, to wit:

Final judgment.

CHARLES P. GOODALL
vs.
J. W. TUCKER, exr., &c. } 1682.

New Orleans, 13th June, A. D. 1850.

Court met pursuant to adjournment.

Present, hon. Theo. H. McCaleb, district judge.

Absent, hon. John McKinley, presiding judge.

This cause having been argued and submitted on a former day, and the same having been maturely considered by the court, it is now ordered, adjudged, and decreed that there be judgment in favor of the defendant and against the plaintiff, Charles P. Goodall, and that said plaintiff pay the costs of suit.

Judgment rendered 13th June, 1850.

Judgment signed 21st June, 1850.

THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And on the 19th June, A. D. 1850, was filed in the clerk's office nunc pro tunc, by order of court, the follow bill of exceptions:

(See next succeeding 51 pages.)

Bill of exceptions.

Filed June 19th, 1850, nunc pro tunc, by order of court.
J. W. GURLEY, *Clerk.*

CHARLES P. GOODALL, use of Hill,
vs.
JOSEPH W. TUCKER, exr. of Robinson, deceased.

U. S. circuit court, eastern district of Louisiana.

Memo. This cause was tried before the judge, who was to find upon the facts as a jury would, and to decide the legal propositions, just as he would have to do on instructing a jury if the facts were to be found by a jury.

And upon the trial of the cause all the evidence offered was in writing. It was offered read in the order contained in the statement of the evidence made out by the clerk during the trial and filed. The statement of the evidence, and the written evidence therein referred to, was all the evidence.

Mem. of evidence offered and read on trial 20th May, 1850.

CHARLES P. GOODALL
vs.
J. W. TUCKER, exr., &c. } 1682.

U. States circuit court, on trial 20th May, 1850.

Evidence offered by plaintiff and read.

No. 1. Copy of record in case of Goodall vs. Robinson, exr., objected to by defendant, and read subject to exception.

No. 2. Depositions of James Lyons and Bacon Tait, and documents thereto annexed.

No. 3. Depositions [of] James Lyons, Thos. B. Carter, and Isham Puckett, and documents thereto annexed; objected to by defendant, and read subject to objection.

No. 4. James Lyons (deposition of,) and documents thereto annexed; objected to by defendant, and read subject thereto.

No. 5. Record from second district court of New Orleans, in matter of succession of James Wilkinson, subject to exception.

No. 6. Puckett's discharge under the bankrupt law.

Off'd by defendant.

No. 1. Will of Wilkinson and its probate.

No. 2. Certificate of marriage of Mrs. Wilkinson to Mr. Nat. B. Hill. (Page 28.)

Note.—Both these papers are to be found on the record of the second district court of New Orleans in the matter of succession of James Wilkinson, offered by the plaintiff, numbered 5.

J. W. GURLEY, *Cl'k.*

No. 1.

Copy of record in case of Goodall vs. Robinson, executor, objected to by defendant, and read subject to exception.

Pleas at the court-house of Henrico county, before the justices of the peace for the said county, on the 14th day of August, in the year one thousand eight hundred and forty-three.

Be it remembered, that heretofore, to wit, at rules, held in the clerk's office of the said county court, on the 11th day of March, in the year one thousand eight hundred and forty-three, came Charles P. Goodall by R. T. Daniel, his attorney, and filed his certain bill against Joseph Allen and William R. Johnson, executor of Abner Robinson, deceased, of a plea of debt, which said bill is in these words:

HENRICO COUNTY, *sct:*

Charles P. Goodall complains of Joseph Allen and William R. Johnson, executors of the last will and testament of Abner Robinson, deceased, in custody, &c., of a plea, that they render to the plaintiff four thousand nine hundred and twenty-six dollars and twenty-seven cents, which they unjustly detain from the plaintiff. For that heretofore, to wit, on the sixth day of September, in the year one thousand eight hundred and thirty-nine, and at said county, and in the lifetime of the said Abner Robinson, the said Abner Robinson and a certain Isham Puckett and James P. Wilkinson, (who have survived the said Abner Robinson,) did make their certain writing obligatory, (commonly called a single bill,) sealed with their respective seals, and to the court here now shown, (the date whereof is the day and year aforesaid,) whereby on demand they promised to pay to the plaintiff the sum of four thousand nine hundred and twenty-six dollars and twenty-seven cents, (above demanded) lawful money of the United States; for the faithful performance of which promise they bound themselves, their heirs, executors, administrators, and assigns; and the plaintiff avers that he did afterwards, to wit, on the day of in the year and at the said county, demand of the said Robinson, and the said Puckett, and the said Wilkinson, payment of the said sum of money in the said single bill mentioned, which they did then and there refuse; and that he hath since the death of said Abner Robinson demanded payment thereof, to wit, on the day of and at said county, of the defendant's executors as aforesaid, which they and each of them did then there refuse; and that neither the said Robinson, the said Puckett, nor the said Wilkinson, did in the lifetime of the said Robinson, pay to the plaintiff the said sum of money, nor any part thereof, nor have the said defendant's executors of the said Abner Robinson, nor the said Puckett, nor the said Wilkinson, since the death of the said Robinson, paid the same or any part thereof, to the plaintiff. But to do so they and each of them, have all and each of them wholly refused, and do still refuse, and the said defendant's executors as aforesaid do still refuse so to do, to the damage of the plaintiff twenty dollars, and therefore he sues.

DANIEL, P. C.

Whereupon the defendant being arrested, and not appearing, on the motion of the plaintiff, it was ordered that judgment be entered for the plaintiff against the defendants for what shall appear to be justly due to the plaintiff, to be levied of the goods and chattels of the decedent in the hands of the defendants to be administered, unless the defendants should appear at the next rules, and answer the plaintiff's action; at which day, to wit, at rules, held for the said county, in the clerk's office aforesaid, on the 8th day of April, in the year last mentioned, the defendants still failing to appear, on the motion of the plaintiff, by his attorney, it is ordered that the conditional judgment entered in this cause at the last rules stand confirmed. And at another day, to wit, at a quarterly court held for the said county, at the court-house, on the 2d day of May, in the year one thousand eight hundred and forty-three, came the parties aforesaid by their attorneys, and on the motion of the said defendants it was ordered that the judgment obtained in the office against them be set aside, and thereupon the said defendants say that the plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that their said testator, before this action was brought, paid to the said plaintiff the debt in the declaration mentioned, and this the said defendants are ready to verify. Wherefore they pray judgment, if the said plaintiff ought to have or maintain his aforesaid action thereof against them; and the plaintiff replies, that the defendant's testator did not before this action was brought pay the debt in the declaration mentioned, or any part thereof, and this he prays may be inquired of by the country, and the defendants likewise. And now, at this day, to wit, at a quarterly court held for the said county of Henrico, at the court-house, on the same day and year first herein mentioned, to wit, on the fourteenth day of August, one thousand eight hundred and forty-three, came the parties aforesaid by their attorneys, and thereupon came a jury, to wit, Samuel C. Greenhow, L. N. Davis, John A. Lemorey, H. A. Delcampo, Samuel Foose, G. D. Harwood, D. S. McCarthey, E. M. Morgan, H. Cannon, M. Huston, Wm. Hawkins, and W. M. Harrison, who being elected, tried, and sworn, the truth to speak upon the issue joined, upon their oath do say, that the debt in the declaration demanded has not been paid, as the defendant in pleading hath alleged, and they do allow on said debt interest from the 6th day of September, in the year 1839, till paid. Therefore, it is considered by the court, that the plaintiff recover against the defendant four thousand nine hundred and twenty-six dollars and twenty-seven cents, the debt in the declaration demanded, with interest thereon after the rate of six per centum per annum, to be computed from the 6th day of September, one thousand eight hundred and thirty-nine, till payment, and his costs by him about his suit in this behalf expended, to be levied of the goods and chattels of the decedent in the hands of the defendants to be administered, and the said defendants in mercy, &c.; plaintiff's costs eight dollars and seventy-three cents.

On which judgment the following execution issued, to wit:

"The Commonwealth of Virginia to the sheriff of Henrico county, greeting:

We command you that of the goods and chattels of Abner Robinson, deceased, in the hands of Joseph Allen and Wm. R. Johnson, executors of said Abner Robinson, late in your bailiwick, you cause to be made four thousand nine hundred and twenty-six dollars and twenty-seven cents, with interest thereon after the rate of six per centum per annum, to be computed from the 6th day of September, 1839, till paid, which Charles P. Goodall, lately in our county court of Henrico, hath recovered against the said Robinson's executors for debt; also eight dollars and seventy-three cents which to the said Goodall in the same court were adjudged for his costs by him about his suit in that behalf expended, whereof the said Allen and Johnson, executors, &c., are convict, as appears to us of record; and that you have the same before the justices of our said county court, at the court-house, on the first Monday in November next, to render to the said Goodall of the debt, interests, and costs aforesaid; and have then there this writ.

Witness Loftin N. Ellett, clerk of our said court, at the court-house, this 16th day of August, 1843, in the 68th year of the commonwealth.

LOFTEN N. ELLETT, *C. H. C.*

And which was returned with the following return thereon, to wit:
No effects found.

THOMAS B. CARTER, *D. S.*
For R. A. MAYO, *S. H. C.*

The following is a copy of the single bill on which the action aforesaid was instituted, to wit: "On demand we, Abner Robinson, Isham Puckett, and J. B. Wilkinson, promise to pay to Charles P. Goodall, his executors or administrators, the sum of four thousand nine hundred and twenty-six dollars and twenty-seven cents, ($4,926 27,) lawful money of these United States, for the faithful performance of which promise we bind ourselves, our heirs, executors, administrators, and assigns. As witness our hands and seals, this 6th day of September, 1839.

"ABNER ROBINSON, [SEAL.]
"ISHAM PUCKETT, [SEAL.]
"JAS. P. WILKINSON." [SEAL.]

STATE OF VIRGINIA, *Henrico county, to wit:*

I, Loftin N. Ellett, clerk of the county court for the said county of Henrico, in the State of Virginia, do hereby certify, that the foregoing is a true transcript of the record and proceedings on a certain action of debt lately depending in the said county court of Henrico, between Charles P. Goodall, plaintiff, and Joseph Allen and Wm. R. Johnson, executors of Abner Robinson, deceased, defendants, with all things touching the same as fully and wholly as they now exist among the records of my office.

In testimony whereof I hereto subscribe my name and annex the seal of the said court, this 28th day of December, one thousand eight hundred and forty-seven. [SEAL.]

LOFTIN N. ELLETT, *Clerk*.

STATE OF VIRGINIA, *Henrico county, to wit:*

I, John G. Mosby, presiding justice of the peace of the county court for the said county of Henrico, in the State of Virginia, do certify, that Loftin N. Ellett, who hath given the preceding certificate, is clerk of the county court aforesaid, and that his said attestation is in due form.

Given under my hand and seal, this 28th day of December, one thousand eight hundred and forty-seven.

JOHN G. MOSBY. [SEAL.]

STATE OF VIRGINIA, *Henrico county, to wit:*

I, Loftin N. Ellett, clerk of the county court for the said county, do hereby certify, that John G. Mosby, whose name is subscribed above, is the presiding justice of the peace of the county court aforesaid, and that full faith and credit ought to be given to all of his official acts as such.

Given under my hand this 28th day of December, one thousand eight hundred and forty-seven.

LOFTIN N. ELLETT, *C. H. C.*

No. 2.

Depositions offered by plaintiff and read on trial 20th May, 1820.

J. W. GURLEY, *Clerk*.

UNITED STATES OF AMERICA,

Eastern district of Virginia, city of Richmond, ss:

Be it remembered, that on the sixteenth day of December, in the year of our Lord one thousand eight hundred and forty-eight, before me, Peter V. Daniel, jr., a commissioner duly appointed on the eleventh day of May, in the year 1844, by the circuit court of the United States, in and for the fourth judicial circuit and the eastern district of Virginia, under and by virtue of the acts of Congress entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act of Congress entitled "an act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1847; and the act entitled "an act to establish the judicial courts of the United States," passed September 24th, 1789, personally appeared James Lyons and Bacon Tait, persons of sound mind and lawful age, and witnesses for the plaintiff in a civil suit now depending in the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, wherein Charles P. Goodall is plaintiff, and Joseph W. Tucker,

executor of Abner Robinson, deceased, is defendant; and the said James Lyons being by me first carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, did in answer to the interrogatories propounded to him depose and say:

Question first. Are you acquainted and familiar with the handwriting and signature of Abner Robinson, now deceased, and if so please look at the single bill here shown to you, and marked "C," bearing date the 6th day of September, 1839, signed by Abner Robinson, Isham Puckett, and James P. Wilkinson, by which they promise to pay to Charles P. Goodall on demand the sum of four thousand nine hundred and twenty-six dollars and twenty-seven cents; and say whether the signature of Abner Robinson thereto is genuine.

Answer. For many years previous to the death of Abner Robinson I was his legal counsel and familiar with his handwriting and signature. His signature to the obligation now shown to me, and described in the question, is genuine, and in his own proper handwriting.

Question second. Under the laws and decisions of Virginia does the language of the obligation, "we, Abner Robinson, Isham Puckett, and James P. Wilkinson, promise to pay," bind each party for the whole amount of the obligation, or only for his rateable portion thereof?

Answer. By the common law of England, which is the law of Virginia, except so far as it has been modified by statute and the decisions of the supreme court of Virginia, each party or obligor is bound for the whole debt; and by the statute of Virginia, to be found in the first volume of revised code of 1819, page 359, if one of the obligors dies, his representative may be sued as if the bond had been a several bond. The right of action survives, and thus far the common law is abrogated, and the estate of the dead obligor is liable for the whole debt.

Question third. If judgment upon such an obligation as has been shown you be rendered against the three obligors without stating that [it] is against each, but briefly "that the plaintiffs 'recover' of the defendants, Robinson, Puckett, and Wilkinson," &c. Is it a judgment against each party for the whole amount, or against each party for his share thereof?

Answer. It is a judgment against each and all for the whole amount, and each is liable for the whole payment.

Question fourth. When a note or other obligation is payable on demand, is demand or protest required by the laws of Virginia, and does interest run from the date of the obligation, or from date of demand and protest? Please state also what is the rate of interest in Virginia on notes or obligations after due, and on judgments.

Answer. No demand or protest is necessary before suit on obligations not negotiable, payable "on demand." Interest runs from the date of the obligation. The lawful interest on notes and obligations, and on judgments, by the Virginia statute, is six per centum per annum.

Question fifth. Where did the parties to this bond, marked "C," and now shown to you, and hereto annexed, reside at the time that it was executed?

Answer. All the parties resided in the State of Virginia, and Charles P. Goodall and Isham Puckett have always since, and still do, reside in Virginia, and James P. Wilkinson and Abner Robinson died in the city of Richmond, in the State of Virginia; and Abner Robinson, not very long before he died, to wit, in 1838, stated to me that he considered Virginia as his home, and made affidavit to an answer in chancery, which as his counsel I drew for him, in which it was stated as a necessary part of his defence that Richmond was his domicil, and his residence in Louisiana only temporary; and from my knowledge of the business of Robinson, Puckett, and Wilkinson, out of which the bond to Charles P. Goodall originated, I feel warranted in saying that the bond executed to Charles P. Goodall by these parties was executed in Virginia, in the city of Richmond. I say this because, from the circumstances which occurred about that time, I am satisfied that the bond could not have been executed elsewhere; and further this deponent saith not.

Signed, JAMES LYONS.

And the said Bacon Tate, being by me first carefully examined, and cautioned, and sworn, to testify the whole truth, and nothing but the truth, did, in answer to the interrogatories propounded to him, depose and say:

Question first. Are you well acquainted with the handwriting and signature of Abner Robinson, now deceased; and if so, look at the single bill here shown to you, marked "C," bearing date the 6th day of September, 1839, signed by Abner Robinson, Isham Puckett, and James P. Wilkinson, by which they promised to pay to Charles P. Goodall, on demand, the sum of four thousand nine hundred and twenty-six dollars and twenty-seven cents; and say whether the signature of Abner Robinson thereto is genuine.

Answer. I knew Abner Robinson for a long time before his death, and was very familiar with his handwriting, and feel confident that the signature of Abner Robinson to the single bill here shown to me, and marked "C," as described in the question, is genuine, and in his proper handwriting. And further this deponent saith not.

(Signed) BACON TAIT.

UNITED STATES OF AMERICA,
Fourth judicial circuit and eastern district of Virginia,
City of Richmond, ss:

I, Peter V. Daniel, jr., a commissioner duly appointed on the eleventh day of May, in the year 1844, by the circuit court of the United States, for the fourth circuit and eastern district of Virginia, under and by virtue of the acts of Congress entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act of Congress entitled "an act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes

depending in the courts of the United States," passed March the first 1817; and the act entitled "an act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing depositions is, that the witnesses live in the State of Virginia, more than one hundred miles from the city of New Orleans, in the State of Louisiana, the place of trial of the cause for and in which the said depositions were taken and were deemed necessary.

I further certify, that no notice of the time and place of taking the said depositions was made out and served on the said Joseph W. Tucker, executor of Abner Robinson, deceased, the defendant or adverse party in the said cause, his agent or attorney, because neither he, the said defendant or adverse party, nor any attorney or agent of the said defendant or adverse party, was, at the time of taking said depositions, within (100) one hundred miles of the city of Richmond, the place of taking said depositions, to the knowledge of the undersigned.

I further certify, that, on the sixteenth day of December, A. D. 1848, I was attended by the said witnesses, who each and all being of sound mind and lawful age, were by me carefully examined, and cautioned, and sworn, to testify the whole truth, and nothing but the truth, and their depositions having been by me reduced to writing, and carefully read over to the said witnesses, they, the said witnesses, after hearing their said depositions so carefully read over to them, then and there severally signed their said depositions in my presence. I have retained the said depositions in my possession for the purpose of sealing up and directing the same with my own hand, and of forwarding them to the court for which they were intended.

I further certify, that I am not of counsel or attorney to either of the parties to the said suit in said depositions and caption named, nor in any way interested in the event of the said civil cause.

In testimony whereof I have hereunto set my hand and seal, this sixteenth day of December, A. D. 1848.

[SEAL.] P. V. DANIEL, JR.,
U. S. commissioner of the circuit and district court of the U. S., for the eastern district of Virginia.

Obligation "C," annexed to depositions and referred to therein.

On demand, we, Abner Robinson, Isham Puckett, and J. P. Wilkinson, promise to pay to Charles P. Goodall, his executors or administrators, the sum of four thousand nine hundred and twenty-six dollars and twenty-seven cents, ($4,926 27,) lawful money of these United States, for the faithful performance of which promise we bind ourselves, our heirs, executors, administrators, and assigns, as witness our hands and seals, this 6th day of September, 1839.

ABNER ROBINSON, [SEAL.]
ISHAM PUCKETT, [SEAL.]
JAMES P. WILKINSON. [SEAL.]

1851.

Endorsement on the above as follows, "C."

I hereby certify, that the within written obligation is the paper shown to the witnesses, James Lyons and Bacon Tait, and by them testified to in the accompanying depositions. P. V. DANIEL, JR.,
Commissioner of the U. S. for the 4th circuit and eastern district of Virginia.

Documents annexed to the foregoing depositions.

A copy of the third section of an act of the general assembly, entitled "an act concerning partitions and joint rights and obligations," it being also the third section of the ninety-eighth chapter of the revised code of the laws of Virginia, enacted March 12th, 1819, and on the 359th page of the edition of the said code published by the order of the general assembly of Virginia, under the superintendence of Benjamin Watkins Leigh, esq.

"Sec. 3. The representative of one jointly bound with another for the payment of a debt, or for performance or forbearance of any act, or for any other thing, and dying in the lifetime of the latter, may be charged, by virtue of such obligation, in the same manner as such representatives might have been "charged, if the obligors had been bound severally as well as jointly."

STATE OF VIRGINIA,
City of Richmond, to wit:

I, George W. Mumford, clerk of the house of delegates and keeper of the rolls of the Commonwealth of Virginia, do hereby certify, that the foregoing is a true copy of the third section of the act entitled "an act concerning partitions and joint rights and obligations," passed by the general assembly on the twenty-eighth day of November, seventeen hundred and eighty-six, chapter 98 of the revised code.

Given under my hand this 15th day of December, 1848.
GEORGE W. MUMFORD,
C. H. D. and keeper of the rolls of Va.

VIRGINIA, *to wit:*

I, William Smith, governor of the State aforesaid, do hereby certify and make known, unto all whom it may concern, that George W. Mumford, whose name is subscribed to the annexed certificate, is, and was at the time of subscribing the same, clerk of the house of delegates and keeper of the rolls of the Commonwealth of Virginia, duly appointed and qualified according to law, and that to all his official acts full faith, credit, and authority are due and ought to be given.

In testimony whereof I have subscribed my name, and caused the great seal of the State to be affixed hereunto. Done at the city of Richmond the fifteenth day of December, in the year of our Lord one thousand eight hundred and forty-eight, and of the commonwealth the seventy-third. WM. SMITH.
[SEAL.]

By the governor. WM. H. RICHARDSON,
Secy. comt. and keeper of the seal.

No. 3.

Depositions of James Lyons, Thomas B. Carter, and Isam Puckett, offered and read by plaintiff on 20th May, 1850.

UNITED STATES OF AMERICA,
Eastern district of Virginia,
City of Richmond, ss:

Be it remembered, that on these 29th and 31st days of January, in the year of our Lord one thousand eight hundred and fifty, before me, P. V. Daniel, jr., a commissioner duly appointed by the circuit court of the United States, for the fourth circuit and eastern district of Virginia, under and by virtue of the acts of Congress entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act of Congress entitled "an act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act entitled "an act to establish the judicial courts of the United States, passed September the 24th, 1789, personally appeared James Lyons, and Thomas B. Carter, and Isham Puckett, witnesses for the plaintiff in a civil suit now depending in the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, wherein Charles P. Goodall, suing for the benefit of Nathaniel B. Hill, is plaintiff, and Joseph W. Tucker, executor of Abner Robinson, dec., is defendant. And the said witnesses being persons of sound mind and lawful age, and having been by me first carefully examined, and cautioned, and sworn, to testify the truth, the whole truth, and nothing but the truth, in the premises, did depose and say as follows:

The said James Lyons doth depose and say, that he hath read the copy of the bond herewith filed and marked A, and that he was for many years, up to the periods of their deaths respectively, the counsel of Abner Robinson and James P. Wilkinson, and that he has heard from both of them that the bond was given for money borrowed by Robinson to pay his own debts, and Wilkinson was the surety; that he recollects very well that Wilkinson and himself visited Robinson at the Washington hotel shortly before he died, and the debt for which Wilkinson was bound to Goodall was the subject of conversation between Goodall, and he believes Wilkinson also; that he is not certain that this last conversation took place in the presence of himself, Robinson, and Wilkinson, or whether the conversation was reported to him at that time by Wilkinson as having occurred before he entered the room where Robinson and Wilkinson were.

JAMES LYONS.

The said Thomas B. Carter deposes and says, that he has read the copy of a bond herewith filed and marked "A," and also the copy of a writ, a return thereon by him made, which is also herewith filed and

marked B; and that on the 5th day of November, 1842, he called at the Washington hotel, as stated in the said return, and that the said Abner Robinson acknowledged that the debt in the said bond and writ mentioned was his own individual debt, and declared that the said Isham Puckett and James P. Wilkinson were his sureties therefor, and that there could be no necessity for requiring bail of him as those sureties were amply able to pay the debt.

Signed, THOMAS B. CARTER, *D. S.*

And the said Isham Puckett deposeth and says, that he hath read and examined the copy of a bond herewith filed and marked ("A,") and that he knows that the original bond was executed by Abner Robinson, with himself, (Puckett,) and James P. Wilkinson, as sureties for a debt then due from the said Abner Robinson alone to the obligee, Charles P. Goodall.

Signed, ISHAM PUCKETT.

UNITED STATES OF AMERICA,
Fourth circuit and eastern district of Virginia, city of Richmond, ss:

I, P. V. Daniel, jr., a commissioner duly appointed by the circuit court of the United States, for the fourth circuit and eastern district of Virginia, under and by virtue of the acts of Congress entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act of Congress entitled "an act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act entitled "an act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, that the witnesses live in the city of Richmond and the county of Henrico, in the State of Virginia, more than one hundred miles from the city of New Orleans, in the State of Louisiana, the place of trial of the cause for and in which the said depositions are taken and are deemed necessary.

I further certify, that no notice of the time and place of taking the said depositions was made out or served on the said defendant, or adverse party, Joseph W. Tucker, executor of Abner Robinson, deceased, because neither of the adverse party, nor any attorney or agent of said adverse party, was at the time of taking the said depositions within (100) one hundred miles of the said city of Richmond, the place of taking the said depositions, to the knowledge of the undersigned.

I further certify, that on these 29th and 31st days of January, A. D. 1850, I was attended by the said witnesses, who being of sound mind and lawful age, were by me carefully examined, and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth,

in the premises, and the said depositions of the said witnesses having by me been reduced to writing in the presence of the said witnesses, and also by me then carefully read to the said witnesses, they subscribed the same in my presence. I have retained the said depositions in my possession for the purpose of sealing up and directing the same with my own hand, and of forwarding the same to the court for which the same were taken.

I further certify, that I am not of counsel or attorney to either of the parties to the suit in the said depositions and caption mentioned, nor in any way interested in the event of the said civil cause named in the said depositions or caption.

In testimony of all which I have hereunto set my hand and seal, this thirty-first day of January, 1850.

[SEAL.]

P. V. DANIEL, Jr., *U. S. commissioner, Circuit and district court of the United States, for the eastern district of Virginia.*

Document (A,) annexed to the foregoing depositions.

On demand, we, Abner Robinson, Isham Puckett, and J. P. Wilkinson, promise to pay to Charles P. Goodall, his executors or administrators, the sum of four thousand nine hundred and twenty-six dollars and twenty-seven cents, ($4,926 27,) lawful money of the United States; for the faithful performance of which promise, we bind ourselves, our heirs, executors, administrators, and assigns.

As witness our hands and seals, this 6th day of September, 1839.

ABNER ROBINSON, [SEAL.]
ISHAM PUCKETT, [SEAL.]
JAMES P. WILKINSON. [SEAL.]

VIRGINIA, *Henrico county, to wit:*

I, Loften N. Ellett, clerk of the county court for the said county of Henrico, in the State of Virginia, do hereby certify, that the above is a true copy of the bond or obligation on which a suit was instituted in the said county court by Charles P. Goodall, plaintiff, against Abner Robinson, Isham Puckett, and James P. Wilkinson, defendants, on the 28th day of October, 1842, the original of which said bond or obligation was withdrawn from the clerk's office of the county court aforesaid on the 28th day of March, 1848, by N. B. Hill, administrator of James P. Wilkinson, deceased, in pursuance of an order of the said court, entered on the 8th day of March, 1848, on the clerk's retaining a true copy of the said bond or obligation, which said copy was accordingly retained.

In testimony whereof I hereto subscribe my name, and annex the seal of the said court, this 14th day of January, 1850, and in the 74th year of the commonwealth.

[SEAL.]

LOFTEN N. ELLETT, *C. H. C.*

1852.

VIRGINIA, *Henrico county, to wit:*

I, John G. Mosby, presiding justice of the peace of the county court for the said county of Henrico, in the State of Virginia, do hereby certify, that Loften N. Ellett, who hath given the foregoing certificate, is clerk of the county court aforesaid, and that his said attestation is in due form.

Given under my hand and seal, this 23d day of January, 1850.

JNO. G. MOSBY. [SEAL.]

Endorsed on the foregoing, as follows:

This paper was exhibited to the witnesses, James Lyons, Thomas B. Carter, and Isham Puckett, and by them deposed to as being the paper marked "A" in their annexed depositions.

P. V. DANIEL, Jr.,
U. S. commissioner.

Document marked ("B,") annexed to the foregoing depositions.

The Commonwealth of Virginia, to the sheriff of Henrico county, greeting:

We command you to take Abner Robinson, Isham Puckett, and James P. Wilkinson, if they be found within your bailiwick, and them safely keep so that you have their bodies before the justices of our said county court of Henrico, at the court-house, on the first Monday of November next, to answer Charles P. Goodall of a plea of debt for four thousand nine hundred and twenty-six dollars and twenty-seven cents, with legal interest thereon from the 6th day of September, 1839, till paid. Damages twenty dollars. And have then and there this writ.

Witness Loften N. Ellett, clerk of our said court, this 28th day of October, 1842, in the 67th year of the commonwealth.

LOFTEN N. ELLETT, *C. H. C.*

Return.

Executed on James P. Wilkinson, the 29th day of October, 1842, and the recognisance of Johnson Eubank taken before me as his special bail, which is herewith returned. Puckett is not found.

P. B. JONES, *D. S.*,
For J. SNEAD, *S. H. C.*

The within writ came to my hands on the 5th day of November, 1842, and on that day I saw the defendant, Abner Robinson, who was then, and had been for some days, confined to his bed by sickness. He declared his inability to give bail, or to leave his bed; and his attending physician, Dr. M. Clark, expressed his opinion that if the defendant was taken from his bed and removed to jail, it might cause his death. I have therefore been unable to obey the direction on the within writ to obtain bail from the said defendant, Abner Robinson, or to take him into custody.

THOMAS B. CARTER, *D. S.*,
For JESSE SNEAD, *S. H. C.*

STATE OF VIRGINIA, *Henrico county, to wit:*

I, Loften N. Ellett, clerk of the county court for the said county of Henrico, in the State of Virginia, do hereby certify, that the foregoing is a true transcript of the writ, with the return thereon, in the case of Charles P. Goodall against Abner Robinson, Isham Puckett, and James P. Wilkinson, in which case judgment was obtained against the said James P. Wilkinson, on the 11th day of March, 1843, and was abated as to the other defendants.

In witness whereof I hereto subscribe my name, and annex the seal of the said court, this 30th day of January, 1850.

[SEAL.] LOFTEN N. ELLETT, *C. H. C.*

VIRIGNIA, *Henrico county, to wit:*

I, John G. Mosby, presiding justice of the peace of the county court for the said county of Henrico, in the State of Virginia, do certify, that Loften N. Ellett, who hath given the preceding certificate, is clerk of the said court, and that his said attestation is in due form.

Given under my hand, this first day of February, 1850.

JNO. G. MOSBY, *J. P.*

Endorsed as follows: This paper is that exhibited to the witness, Thomas B. Carter, and by him deposed to as that marked "B" in his deposition.

P. V. DANIEL, Jr.,
U. S. commissioner.

No. 4.

Depositions filed 9th May, 1850, and opened in court May 20, 1850, and offered by plaintiff and read 20th May, 1850.

J. W. GURLEY, *Clerk.*

UNITED STATES OF AMERICA,
Eastern district of Virginia, city of Richmond, ss:

Be it remembered, that, on the 30th day of April, A. D. 1850, I, P. V. Daniel, jr., a commissioner duly appointed by the circuit court of the United States, for the eastern district of Virginia, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of bail and affidavits in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act entitled "An act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817; and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, in the city of Richmond, James Lyons, a person of lawful age and of sound mind, to testify, and the truth to say, as a

witness on the part and behalf of the plaintiff in a certain civil cause now depending and undetermined in the circuit court of the United States, for the eastern district of Louisiana, holding its sessions at New Orleans, wherein Charles P. Goodall, suing for the benefit of N. B. Hill, is plaintiff, and Joseph W. Tucker, executor of Abner Robinson, deceased, is defendant.

And the said James Lyons, having been by me first duly and carefully examined, cautioned, and sworn, to testify the truth, the whole truth, and nothing but the truth, deposes and says:

I am the same James Lyons who is named one of the trustees in the deed of trust from Abner Robinson to me and Raleigh T. Daniel, as trustees for Charles P. Goodall; two copies of which deed, marked A and B, are now shown to me, and are herewith filed. The other trustee in that deed named never accepted the trust, nor acted under its authority. As the sole accepting and acting trustee, I proceeded to sell, in strict conformity with the provisions of that deed, the property therein conveyed to me in trust, and the grantees in the deeds, of which copies are here shown to me, marked C and D, became severally the purchasers of that property, for the prices and sums of money severally recited in the said deeds to the said purchasers, (C and D,) and I paid over to the said Goodall, on account of the debt secured in the said deed of trust, of which A and B are copies, the following sums on the following days, as the nett proceeds of those sales made under that deed of trust; that is to say, I paid to Col. Goodall, from the Chesterfield sales, 11th March, 1845, $1,302 36, and on the 7th February, 1846, from the sales of Cole's Hill, in Hanover, $1,432.

These payments were made in part discharge of the same debt of Abner Robinson, deceased, for which suit is now pending in the circuit court of the United States, at New Orleans, between C. P. Goodall, suing for the benefit of N. B. Hill and Joseph W. Tucker, executor of Abner Robinson, deceased, in which suit I have previously given my deposition as to the handwriting and signature of Abner Robinson on the bond which forms the subject of said suit.

JAMES LYONS.

UNITED STATES OF AMERICA,
Eastern district of Virginia, city of Richmond, ss:

I, P. V. Daniel, jr., a commissioner duly appointed by the circuit court of the United States, for the eastern district of Virginia, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act entitled "An act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817; and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for

taking the foregoing deposition, and the fact is, that the witness, James Lyons, resides in the city of Richmond, in the State of Virginia, more than one hundred miles from the city of New Orleans, in the State of Louisiana, the place of trial of the said cause in and for which the said deposition was taken and is deemed necessary.

I further certify, that no notice was made out or served on the defendant, or adverse party, nor any agent or attorney of his, of the time and place of taking said deposition, because neither the said defendant, or adverse party, nor any agent or attorney of his, was, at the time of the taking of said deposition, within (100) one hundred miles of the said city of Richmond, the place of taking the said deposition, to the knowledge of the undersigned.

I further certify that, on this 30th day of April, A. D. 1850, I was attended by the said witness, James Lyons, who was of sound mind and lawful age, and the said witness, having been by me first carefully examined, and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth in the premises, and his said deposition having been by me reduced to writing in *his* presence of the said witness, and by me carefully read over to him, he subscribed the same in my presence.

I have retained the said deposition in my possession for the purpose of sealing up and directing the same, with my own hand, and of forwarding it to the court for which the same was taken.

I further certify, that I am not of counsel or attorney for or to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of the said suit or civil cause.

In testimony whereof I have hereunto set my hand and seal, this 30th day of April, anno domini 1850.

[SEAL.]

P. V. DANIEL, JR.,

U. S. commissioner for circuit and district court of the United States, for the eastern dist. of Virginia.

Document (A) annexed to foregoing deposition.

This indenture, made and entered into this fifteenth day of November, one thousand eight hundred and forty-two, between Abner Robinson, of the city of Richmond, of the first part, James Lyons and Raleigh T. Daniel, of the said city, of the second part, and Charles P. Goodall, of the county of Hanover, of the third part, witnesseth: That the said Abner Robinson, in order to secure and provide for the payment of a single bill given by him, with Isham Puckett and James P. Wilkinson as securities, on the sixth day of September, 1839, to the said Charles P. Goodall, for the sum of four thousand nine hundred and twenty-six dollars and twenty-seven cents, payable on demand, as by the said single bill will more fully appear, and the interest which has accrued, or may hereafter accrue thereon, and also for and in consideration of five dollars, to the said Abner Robinson, in hand paid by the said James Lyons and the said Raleigh

T. Daniel, before the signing, sealing, and delivery of this indenture, has granted, bargained, sold, aliened, and conveyed, and by these presents doth grant, bargain, sell, alien, and convey, unto the same James Lyons and Raleigh T. Daniel, during their joint lives, and to the survivor of them, and his heirs and assigns forever, a certain tract, piece, or parcel of land, situate, lying, and being in the county of Hanover, called Cole's Hill, containing seven hundred and fifty acres, be the same more or less; and four tracts, pieces, or parcels of land, situate, lying, and being in the county of Chesterfield, the first called Newby's, containing five hundred acres, be the same more or less; the second called Clark's, containing three hundred and twenty acres, be the same more or less; the third called Baugh's, containing two hundred acres, be the same more or less; and the fourth, called Gill's, containing 157 acres, more or less; which four last mentioned tracts, pieces, or parcels of land were conveyed to the said Abner Robinson by an indenture bearing date the first day of November, 1842, between James P. Wilkinson of the first part, Josiah Gregory of the second part, and the said Abner Robinson of the third part, and are more particularly described therein, together with all the buildings and improvements thereon, and the appurtenances of every kind whatsoever to the said several tracts, or pieces, or parcels of land, respectively belonging; to have and to hold the said five tracts, pieces, or parcels of land, and all the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, and all the estate, right, title, and interest, of the said Abner Robinson therein, unto the said James Lyons and Raleigh T. Daniel, during their joint lives, and to the survivor of them, and his heirs and assigns forever; but in trust, nevertheless, and for the purposes following, to wit:

First. That if, after the expiration of twelve months from the date of these presents, viz., the fifteenth day of November, one thousand eight hundred and forty-three, the money due by virtue of the single bill aforesaid, or any part of it, shall remain due and unpaid by the said Abner Robinson, his heirs, executors, or administrators, to the said Charles P. Goodall, his executors, administrators, or assigns, then and in that case the said James Lyons and Raleigh T. Daniel, or either of them, or the survivor of them, or the heirs of such survivor, shall thereafter, when required by the said Charles P. Goodall, his executors, administrators, or assigns, sell or dispose of in fee simple, at public auction to the highest bidder, for ready money, the said five tracts, pieces, or parcels of land, with all the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, or so much thereof as may be necessary for the purpose of paying the money so remaining due and unpaid as aforesaid, including interest on the principal to the time of such sale; and also for the purpose of defraying the costs and charges of such sale; and thereupon shall convey the same by a deed or deeds sufficient in law to pass and assure to the purchaser or purchasers a good title thereto, agreeably to the sale so made and the powers herein given; and after making such sale, and receiving the

proceeds thereof, shall without delay proceed first to discharge the costs and charges of such sale, and all the expenses attending the execution of the trust hereby created; secondly, to pay the money due by virtue of the said single bill, and then remaining unpaid, including interest on the principal to the day of making the said sale; and lastly, to account for and pay over to the said Abner Robinson, his executors, administrators, or assigns, whatever sum of money of the said proceeds may remain after the two first objects have been effected; but of the time, place, and terms of such sale the said James Lyons and Raleigh T. Daniel, or either of them, or the survivor of them, or his heirs, after fixing the time and place thereof at their or his discretion, shall give at least thirty days' notice by causing an advertisment thereof to be inserted and regularly continued in one or more of the newspapers published in the city of Richmond.

Secondly. This indenture is upon this further confidence, that the said James Lyons and Raleigh T. Daniel, or the survivor of them, or the heirs of such survivor, shall permit the said Abner Robinson and his heirs, and all persons claiming under him, or them, to hold possession of, peaceably and quietly, and to use the said five tracts, pieces, or parcels of land, together with the buildings and improvements thereof, and the appurtenances of every kind to the same respectively belonging; and to take, to and for his and their own use, all the rents, issues, and profits thereof, until a sale of the same shall be made for the above mentioned purposes, he and they paying all the taxes, assessments, dues, and charges thereon, during the time of his or their so holding the same.

And, lastly, this indenture is made upon this third confidence, that whenever all the money, both principal and interest, due by virtue of the said single bill shall be paid, and a sale of the said lands and premises shall be rendered unnecessary for that and the other purposes of this indenture, then and in that case the said James Lyons and Raleigh T. Daniel, or the survivor of them, or the heirs or assigns of such survivor, shall reconvey the said five tracts, pieces, or parcels of land, and their appurtenances, with all the estate and interest therein conveyed to them, or either of them, unto the said Abner Robinson, or convey the same to his heirs, or such other person or persons as shall be then entitled thereto under him, when thereafter required to do so, the said Abner Robinson, or his heirs, or such person or persons paying the expenses thereof. And the said Abner Robinson, for himself, his heirs, executors, and administrators, covenants with the said James Lyons and Raleigh T. Daniel, their heirs and assigns, jointly and severally, to warrant and defend the said five tracts, pieces, or *or* parcels of land hereby conveyed, with all the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, unto the said James Lyons and Raleigh T. Daniel, and to the survivor of them, and the heirs and assigns of such survivor forever, against the claim or claims, and demand or demands, of all persons whatsoever. And the said James Lyons and Raleigh T. Daniel,

for themselves, their heirs, executors, and administrators, covenant with the other parties to these presents that they will faithfully execute the trust hereby reposed in them.

In witness whereof the parties to these presents have hereunto set their hands, and affixed their seals the day and year first herein written.

ABNER ROBINSON. [SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

Signed, sealed, and delivered in presence of—

CORPORATION OF RICHMOND, *to wit:*

We, Littleberry Carrington and Simon Cullen, aldermen and ex officio justices of the peace in the corporation aforesaid, in the State of Virginia, do hereby certify, that Abner Robinson, a party to a certain deed bearing date the fifteenth day of November, 1842, and hereto annexed, personally appeared before us in our corporation aforesaid, and acknowledged the same to be his act and deed, and desired us to certify the said acknowledgment to the clerk of the county court of Hanover, and to the clerk of the county court of Chesterfield, in order that the said deed may be recorded.

Given under our hands and seals, this 16th day of November, 1842.

L. CARRINGTON, [SEAL.]
SIMON CULLEN. [SEAL.]

In the clerk's office of Chesterfield county court, November the 19th, 1842.

The foregoing trust deed, with the certificate of acknowledgment thereon endorsed, made before two justices of the peace, was filed and admitted to record, and the same truly recorded.

Test: P. POINDEXTER, *C.*

HANOVER COUNTY, *to wit:*

This deed of trust, and the certificate of the acknowledgment thereof hereon endorsed, were this day delivered to me; and the same having been duly recorded in the office of the clerk of the county court of Chesterfield, *and* appears by the certificate of the clerk of that court, also hereon endorsed, is, with the said certificates, admitted to record in my office.

Witness my hand, this 22d day of November, 1842.

PHILIP B. WINSTON, *C. H. C.*

STATE OF VIRGINIA,
Hanover county, to wit:

I, William O. Winston, clerk of the county court of Hanover, in

proceeds thereof, shall without delay proceed first to discharge the costs and charges of such sale, and all the expenses attending the execution of the trust hereby created; secondly, to pay the money due by virtue of the said single bill, and then remaining unpaid, including interest on the principal to the day of making the said sale; and lastly, to account for and pay over to the said Abner Robinson, his executors, administrators, or assigns, whatever sum of money of the said proceeds may remain after the two first objects have been effected; but of the time, place, and terms of such sale the said James Lyons and Raleigh T. Daniel, or either of them, or the survivor of them, or his heirs, after fixing the time and place thereof at their or his discretion, shall give at least thirty days' notice by causing an advertisment thereof to be inserted and regularly continued in one or more of the newspapers published in the city of Richmond.

Secondly. This indenture is upon this further confidence, that the said James Lyons and Raleigh T. Daniel, or the survivor of them, or the heirs of such survivor, shall permit the said Abner Robinson and his heirs, and all persons claiming under him, or them, to hold possession of, peaceably and quietly, and to use the said five tracts, pieces, or parcels of land, together with the buildings and improvements thereof, and the appurtenances of every kind to the same respectively belonging; and to take, to and for his and their own use, all the rents, issues, and profits thereof, until a sale of the same shall be made for the above mentioned purposes, he and they paying all the taxes, assessments, dues, and charges thereon, during the time of his or their so holding the same.

And, lastly, this indenture is made upon this third confidence, that whenever all the money, both principal and interest, due by virtue of the said single bill shall be paid, and a sale of the said lands and premises shall be rendered unnecessary for that and the other purposes of this indenture, then and in that case the said James Lyons and Raleigh T. Daniel, or the survivor of them, or the heirs or assigns of such survivor, shall reconvey the said five tracts, pieces, or parcels of land, and their appurtenances, with all the estate and interest therein conveyed to them, or either of them, unto the said Abner Robinson, or convey the same to his heirs, or such other person or persons as shall be then entitled thereto under him, when thereafter required to do so, the said Abner Robinson, or his heirs, or such person or persons paying the expenses thereof. And the said Abner Robinson, for himself, his heirs, executors, and administrators, covenants with the said James Lyons and Raleigh T. Daniel, their heirs and assigns, jointly and severally, to warrant and defend the said five tracts, pieces, or *or* parcels of land hereby conveyed, with all the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, unto the said James Lyons and Raleigh T. Daniel, and to the survivor of them, and the heirs and assigns of such survivor forever, against the claim or claims, and demand or demands, of all persons whatsoever. And the said James Lyons and Raleigh T. Daniel,

for themselves, their heirs, executors, and administrators, covenant with the other parties to these presents that they will faithfully execute the trust hereby reposed in them.

In witness whereof the parties to these presents have hereunto set their hands, and affixed their seals the day and year first herein written.

ABNER ROBINSON. [SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

Signed, sealed, and delivered in presence of—

CORPORATION OF RICHMOND, *to wit:*

We, Littleberry Carrington and Simon Cullen, aldermen and ex officio justices of the peace in the corporation aforesaid, in the State of Virginia, do hereby certify, that Abner Robinson, a party to a certain deed bearing date the fifteenth day of November, 1842, and hereto annexed, personally appeared before us in our corporation aforesaid, and acknowledged the same to be his act and deed, and desired us to certify the said acknowledgment to the clerk of the county court of Hanover, and to the clerk of the county court of Chesterfield, in order that the said deed may be recorded.

Given under our hands and seals, this 16th day of November, 1842.

L. CARRINGTON, [SEAL.]
SIMON CULLEN. [SEAL.]

In the clerk's office of Chesterfield county court, November the 19th, 1842.

The foregoing trust deed, with the certificate of acknowledgment thereon endorsed, made before two justices of the peace, was filed and admitted to record, and the same truly recorded.

Test: P. POINDEXTER, *C.*

HANOVER COUNTY, *to wit:*

This deed of trust, and the certificate of the acknowledgment thereof hereon endorsed, were this day delivered to me; and the same having been duly recorded in the office of the clerk of the county court of Chesterfield, *and* appears by the certificate of the clerk of that court, also hereon endorsed, is, with the said certificates, admitted to record in my office.

Witness my hand, this 22d day of November, 1842.

PHILIP B. WINSTON, *C. H. C.*

STATE OF VIRGINIA,
Hanover county, to wit:

I, William O. Winston, clerk of the county court of Hanover, in

the State aforesaid, do hereby certify, that the foregoing is a true transcript from the records of the said court.

[SEAL.] In testimony whereof I have hereunto set my hand and affixed the seal of the said county, the twenty-third day of April, 1850.

WILLIAM O. WINSTON, *C. H. C.*

STATE OF VIRGINIA,
Hanover county, to wit:

I, Charles P. Goodall, presiding justice of the peace of the county court of the said county, in the State aforesaid, do hereby certify, that William O. Winston, who hath given the preceding certificate, is clerk of the said court, and that his said attestation is in due form.

Given under my hand and seal, the 23d day of April, 1850.

C. P. GOODALL. [SEAL.]

Endorsement on the foregoing indenture, acknowledgment and certificate, is as follows:

"This is the paper marked A, referred to by the witness, James Lyons, in his accompanying deposition, and examined by him when he deposed.

P. V. DANIEL,
United States' Commissioner.

Document "B," referred to in the foregoing deposition of James Lyons, and annexed thereto.

This indenture, made and entered into this fifteenth day of November, one thousand eight hundred and forty-two, between Abner Robinson, of the city of Richmond, of the first part, James Lyons and Raleigh T. Daniel, of the said city, of the second part, and Charles P. Goodall, of the county of Hanover, of the third part, witnesseth: That the said Abner Robinson, in order to secure and provide for the payment of a single bill given by him, with Isham Puckett and James P. Wilkinson as securities, on the 6th day of September, 1839, to the said Charles P. Goodall, for the sum of four thousand nine hundred and twenty-six dollars and twenty-seven cents, payable on demand, as by the said single bill will more fully appear; and the interest which has accrued or which may hereafter accrue thereon; and also for and in consideration of five dollars, to the said Abner Robinson in hand paid, by the said James Lyons and the said Raleigh T. Daniel, before the signing, sealing, and delivering of this indenture, has granted, bargained, sold, aliened and conveyed, and by these presents doth grant, bargain, sell, alien and convey, unto the said James Lyons and Raleigh T. Daniel, during their joint lives, and to the survivor of them, and his heirs and assigns forever, a certain tract, piece, or parcel of land, situate, lying, and being in the county of Hanover, called "Cole's Hill," containing seven hundred and fifty acres, be the same more or less; and four tracts, pieces, or parcels of land, situate, lying and being

in the county of Chesterfield; the first called Newby's, containing five hundred acres, be the same more or less; the second called "Clarke's," containing three hundred and twenty acres, be the same more or less; the third called "Baugh's," containing two hundred acres, be the same more or less; and the fourth called Gill's, containing one hundred and fifty-seven acres, be the same more or less; which four last mentioned tracts, pieces, or parcels of land were conveyed to the said Abner Robinson by an indenture bearing *bearing* date the first day of November, 1842, between James P. Wilkinson, of the first part, Josiah Gregory, of the second part, and the said Abner Robinson, of the third part, are more particularly described therein, together with all the buildings and improvements thereon, and the appurtenances of every kind whatever, to the said several tracts, pieces, or parcels of land respectively belonging; to have and to hold the said five tracts, pieces, or parcels of land, and all the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, and all the estate, right, title, and interest of the said Abner Robinson therein, unto the said James Lyons and Rawleigh T. Daniel, during their joint lives, and to the survivor of them, his heirs and assigns, forever; but in trust, nevertheless, and for the purposes following, to wit:

First, that if, after the expiration of twelve months from date of these presents, viz., the fifteenth day of November, one thousand eight hundred and forty-three, the money due by virtue of the single bill aforesaid, or any part of it, shall remain due and unpaid by the said Abner Robinson, his heirs, executors, or administrators to the said Charles P. Goodall, his executors, administrators, or assigns, then and in that case the said James Lyons and Rawleigh T. Daniel, or either of them, or the survivor of them, or the heirs of such survivor, shall thereafter, when required by the said Charles P. Goodall, his executors, administrators or assigns, sell and dispose of in fee simple, at public auction to the highest bidder, for ready money, the said five tracts, pieces, or parcels of land, with all the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, or so much thereof as may be necessary for the purpose of paying the money so remaining due and unpaid as aforesaid, including interest on the principal to the time of such sale, and also for the purpose of defraying the costs and charges of such sale; and thereupon shall convey the same, by a deed or deeds, sufficient in law to pass and assure to the purchaser or purchasers a good title thereto, agreeably to the sale so made and the powers herein given; and after making such sale, and receiving the proceeds thereof, shall, without delay, proceed, first, to discharge the costs and charges of such sale, and all the expenses attending the execution of the trust hereby created; secondly, to pay the money due by virtue of the said single bill and then remaining unpaid, including interest on the principal to the day of making the said sale; and, lastly, to account for and pay over to the said Abner Robinson, his executors, administrators or assigns, whatever sum of money of the said proceeds may remain after the two first objects have been effected; but of the

time, place, and terms of such sale, the said James Lyons and Rawleigh T. Daniel, or either of them, or the survivor of them, or his heirs, after fixing the time and place thereof, at their or his discretion, shall give at least thirty days' notice, by causing an advertisement thereof to be inserted, and regularly continued, in one or more of the newspapers published in the city of Richmond.

Secondly. This indenture is upon this further confidence, that the said James Lyons and Rawleigh V. T. Daniel, or the survivor of them, or the heirs of such survivor, shall permit the said Abner Robinson and his heirs, and all persons claiming under him or them, to hold possession of, peaceably and quietly, and to use the said five tracts, pieces, or parcels of land, together with the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, and take to and for his and their own use all the rents, issues, and profits thereof, until a sale of the same shall be made for the above mentioned purposes, he and they paying all the taxes, assessments, dues, and charges thereon during the term of his or their so holding the same.

And, lastly, this indenture is made upon this *this* third confidence, that whenever all the money, both principal and interest, due by virtue of the said single bill, shall be paid, and a sale of the said lands and premises shall be rendered unnecessary for that and the other purposes of this indenture, then and in that case the said James Lyons and Rawleigh T. Daniel, or the survivor of them, or the heirs or assigns of such survivor, shall reconvey the said five tracts, pieces, or parcels of land, and their appurtenance, with all the estate and interest therein conveyed to them, or either of them, unto the said Abner Robinson, or convey the same to his heirs, or such other person or persons as shall be then entitled thereto under him, when thereafter required to do so, the said Abner Robinson, or his heirs, or such person or persons, paying the expense thereof. And the said Abner Robinson, for himself, his heirs, executors, and administrators, covenants with the said James Lyons and Rawleigh T. Daniel, their heirs and assigns, jointly and severally, to warrant and defend the said five tracts, pieces, or parcels of land hereby conveyed, with all the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, unto the said James Lyons and Rawleigh T. Daniel, and to the survivor of them, and the heirs and assigns of such survivor forever, against the claim or claims, and demand *and* demands, of all persons whatsoever; and the said James Lyons and Rawleigh T. Daniel, for themselves, their heirs, executors, and administrators, covenant with the other parties to these presents, that they will faithfully execute the trust hereby reposed in them.

In witness whereof the parties to these presents have hereunto set their hands and affixed their seals the day and year first herein written.

ABNER ROBINSON. [SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

Signed, sealed, and acknowledged, in presence of—

CITY OF RICHMOND, *to wit:*

We, Littleberry Carrington and Simon Cullen, aldermen and ex officio justices of the peace in the corporation aforesaid, in the State of Virginia, do hereby certify, that Abner Robinson, a party to a certian deed, bearing date the fifteenth day of November, 1842, and hereto annexed, personally appeared before us, in our corporation aforesaid, and acknowledged the same to be his act and deed, and desired us to certify the said acknowledgment to the clerk of the county court of Hanover, and to the clerk of the county court of Chesterfield, in order that the said deed may be recorded.

Given under our hands and seals, this 16th day of November, 1842.

L. CARRINGTON, [SEAL.]
SIMON CULLEN. [SEAL.]

In the clerk's office of Chesterfield county court, November the 19th, 1842, the foregoing trust deed, with the certificate of acknowledgment thereon endorsed, made before two justices of the peace, was filed and admitted to record, and the same is truly recorded.

Test: P. POINDEXTER, *C.*
A copy. Test: SILAS CHEATHAM, *C.*

STATE OF VIRGINIA,
Chesterfield county, to wit:

I, Silas Cheatham, clerk of the county court of the county aforesaid, in the State aforesaid, do hereby certify, that the foregoing trust deed is truly and correctly copied from the records of the said county court.

In testimony whereof I have hereunto set my hand and affixed the seal of the said county court, this 19th day of April, A. D. [SEAL.] one thousand eight hundred and fifty, and in the 74th year of the commonwealth.

SILAS CHEATHAM,
Clerk of Chesterfield county court.

STATE OF VIRGINIA,
Chesterfield county, to wit:

I, Thomas Jones, presiding justice of the peace in and for the county aforesaid, in the State aforesaid, do hereby certify, that Silas Cheatham, who hath given the foregoing certificate, is, and was at the time of signing the same, clerk of the county court of Chesterfield county, in the State aforesaid, duly elected and qualified as such; that full faith and credit are due and ought to be given to all his legal official acts as such; that his said certificate is in due form, and that his said signature is genuine.

Given under my hand and private seal, this 24th day of April, 1850.

THOMAS JONES, *P. J. P.* [SEAL.]

Endorsement on the foregoing indenture and certificates, as follows, viz:

time, place, and terms of such sale, the said James Lyons and Rawleigh T. Daniel, or either of them, or the survivor of them, or his heirs, after fixing the time and place thereof, at their or his discretion, shall give at least thirty days' notice, by causing an advertisement thereof to be inserted, and regularly continued, in one or more of the newspapers published in the city of Richmond.

Secondly. This indenture is upon this further confidence, that the said James Lyons and Rawleigh V. T. Daniel, or the survivor of them, or the heirs of such survivor, shall permit the said Abner Robinson and his heirs, and all persons claiming under him or them, to hold possession of, peaceably and quietly, and to use the said five tracts, pieces, or parcels of land, together with the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, and take to and for his and their own use all the rents, issues, and profits thereof, until a sale of the same shall be made for the above mentioned purposes, he and they paying all the taxes, assessments, dues, and charges thereon during the term of his or their so holding the same.

And, lastly, this indenture is made upon this *this* third confidence, that whenever all the money, both principal and interest, due by virtue of the said single bill, shall be paid, and a sale of the said lands and premises shall be rendered unnecessary for that and the other purposes of this indenture, then and in that case the said James Lyons and Rawleigh T. Daniel, or the survivor of them, or the heirs or assigns of such survivor, shall reconvey the said five tracts, pieces, or parcels of land, and their appurtenance, with all the estate and interest therein conveyed to them, or either of them, unto the said Abner Robinson, or convey the same to his heirs, or such other person or persons as shall be then entitled thereto under him, when thereafter required to do so, the said Abner Robinson, or his heirs, or such person or persons, paying the expense thereof. And the said Abner Robinson, for himself, his heirs, executors, and administrators, covenants with the said James Lyons and Rawleigh T. Daniel, their heirs and assigns, jointly and severally, to warrant and defend the said five tracts, pieces, or parcels of land hereby conveyed, with all the buildings and improvements thereon, and the appurtenances of every kind to the same respectively belonging, unto the said James Lyons and Rawleigh T. Daniel, and to the survivor of them, and the heirs and assigns of such survivor forever, against the claim or claims, and demand *and* demands, of all persons whatsoever; and the said James Lyons and Rawleigh T. Daniel, for themselves, their heirs, executors, and administrators, covenant with the other parties to these presents, that they will faithfully execute the trust hereby reposed in them.

In witness whereof the parties to these presents have hereunto set their hands and affixed their seals the day and year first herein written.

ABNER ROBINSON. [SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

Signed, sealed, and acknowledged, in presence of—

CITY OF RICHMOND, *to wit:*

We, Littleberry Carrington and Simon Cullen, aldermen and ex officio justices of the peace in the corporation aforesaid, in the State of Virginia, do hereby certify, that Abner Robinson, a party to a certian deed, bearing date the fifteenth day of November, 1842, and hereto annexed, personally appeared before us, in our corporation aforesaid, and acknowledged the same to be his act and deed, and desired us to certify the said acknowledgment to the clerk of the county court of Hanover, and to the clerk of the county court of Chesterfield, in order that the said deed may be recorded.

Given under our hands and seals, this 16th day of November, 1842.

L. CARRINGTON, [SEAL.]
SIMON CULLEN. [SEAL.]

In the clerk's office of Chesterfield county court, November the 19th, 1842, the foregoing trust deed, with the certificate of acknowledgment thereon endorsed, made before two justices of the peace, was filed and admitted to record, and the same is truly recorded.

Test: P. POINDEXTER, *C.*
A copy. Test: SILAS CHEATHAM, *C.*

STATE OF VIRGINIA,
Chesterfield county, to wit:

I, Silas Cheatham, clerk of the county court of the county aforesaid, in the State aforesaid, do hereby certify, that the foregoing trust deed is truly and correctly copied from the records of the said county court.

In testimony whereof I have hereunto set my hand and affixed the seal of the said county court, this 19th day of April, A. D. [SEAL.] one thousand eight hundred and fifty, and in the 74th year of the commonwealth.

SILAS CHEATHAM,
Clerk of Chesterfield county court.

STATE OF VIRGINIA,
Chesterfield county, to wit:

I, Thomas Jones, presiding justice of the peace in and for the county aforesaid, in the State aforesaid, do hereby certify, that Silas Cheatham, who hath given the foregoing certificate, is, and was at the time of signing the same, clerk of the county court of Chesterfield county, in the State aforesaid, duly elected and qualified as such; that full faith and credit are due and ought to be given to all his legal official acts as such; that his said certificate is in due form, and that his said signature is genuine.

Given under my hand and private seal, this 24th day of April, 1850.

THOMAS JONES, *P. J. P.* [SEAL.]

Endorsement on the foregoing indenture and certificates, as follows, viz:

"This is the paper marked B, referred to by the witness, James Lyons, in his accompanying deposition, and examined by him when he deposed.

"P. V. DANIEL,
"*U. S. commissioner.*"

Document ("C") referred to by the witness, J. Lyons, in his deposition, and annexed thereto.

This indenture made this eleventh day of March, in the year one thousand eight hundred and forty-five, between Jas. Lyons and Chas. P. Goodall, ex'r of the last will and testament of Henry King, dec'd, of the first part, and Joseph Allen, of the city of Richmond, of the second part. Whereas, Abner Robinson, by his indenture of trust, bearing date on the 15th day of November, in the year 1842, and duly recorded in the clerk's office of Chesterfield county court, conveyed to James Lyons and Raleigh T. Daniel, and the survivor of them, the four tracts of land hereafter conveyed for the purpose of securing a debt of four thousand nine hundred dollars, besides interest, to the said Goodall, executor of said King, with power to either of the trustees to execute the trust when required to do so by the said Goodall, if default be made in the payment of the said debt; and whereas the said Lyons, at the request of the said Goodall, (default having been made in the payment of the said debt,) which is testified by his becoming a party to this indenture, has advertised the said tracts of land for sale, in conformity with the terms and conditions of the said deed of trust, and on the 10th day of March, 1845, proceeded to sell the same at Chesterfield courthouse, by public auction, to the highest bidder, for cash, in the presence of the said Goodall, and at such sale the said Allen became the purchaser of the said tracts of land at the following prices, viz: Newby's, at the price of $810; Clarke's, at the price of $250; Baugh's, at the price of $150; and Gill's, at the price of $200; to be paid in cash.

Now, this indenture witnesseth, that the said Lyon, for and in consideration of the premises, and of the sum of fourteen hundred and ten dollars, to him in hand paid by the said Allen at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and with the assent of the said Goodall, which is testified by his becoming a party to this indenture, has granted, bargained, and sold, and by these presents doth grant, bargain, and sell, and convey, unto the said Joseph Allen, his heirs and assigns forever, those four several tracts of land, hereinbefore described, lying and being in the county of Chesterfield; one of them, called "Newby's," supposed to contain five hundred acres, more or less; "Clarke's," supposed to contain three hundred and twenty acres, more or less; "Baugh's," supposed to contain two hundred acres, more or less; and "Gill's," supposed to contain one hundred and fifty-seven acres, more or less, with all their appurtenances, and subject to the right of Mrs. Puckett, wife of Isham Puckett, to dower in the same; to have and to hold the

same unto the said Joseph Allen, his heirs and assigns, forever. And the said Lyons, for himself and his heirs, doth, by these presents, warrant, and will forever defend, the title to the said several tracts of land unto the said Allen and his heirs (subject to the right of dower aforesaid) against the claim or demand of him, the said Lyon, and of all persons claiming under him.

In testimony whereof the said parties of the first part have hereunto set their hands and affixed their seals the day and year first herein written.

JAMES LYONS, [SEAL.]
C. P. GOODALL. [SEAL.]

CITY OF RICHMOND, *to wit:*

We, Samuel T. Pulliam and Simon Cullen, justices of the peace for the city aforesaid, do hereby certify, that James Lyons and Charles P. Goodall, parties to a certain indenture, bearing date on the 11th day of March, 1845, and hereunto annexed, personally appeared before us, in our city aforesaid, and acknowledged the same to be their act and deed, and desired us to certify the said acknowledgment to the clerk of the county court of Chesterfield, in order that the said deed may be by him recorded.

Given under our hands and seals this eleventh day of March, 1845.

SAMUEL T. PULLIAM, [SEAL.]
SIMON CULLEN. [SEAL.]

In Chesterfield county court, clerk's office, 1845, May 27th.

The foregoing deed of bargain and sale was filed in said office, and, with the certificate of acknowledgment thereon endorsed, was admitted to record.

Teste: P. POINDEXTER, *C.*
A copy, teste: SILAS CHEATHAM, *C.*

STATE OF VIRGINIA,
Chesterfield county court.

I, Silas Cheatham, clerk of the court of the county aforesaid, in the State aforesaid, do hereby certify, that the foregoing deed of bargain and sale is truly and correctly copied from the records of the said county court.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said county court, this 19th day of April, A. D. [SEAL.] one thousand eight hundred and fifty, and in the 74th year of the commonwealth.

SILAS CHEATHAM, *Clerk of Chesterfield county court.*

STATE OF VIRGINIA,
Chesterfield county, to wit:

I, Thomas Jones, presiding justice of the peace, in and for the county aforesaid, in the State aforesaid, do hereby certify, that Silas Cheatham, who hath given the foregoing certificate, is, and was at the time of signing the same, clerk of the county court of Chesterfield county aforesaid, in the State aforesaid, duly elected and qualified as such, that full faith and credit are due and ought to be given to all his legal official acts as such; that his said certificate is in due form, and that his said signature is genuine. Given under my hand and private seal this 24th day of April, 1850.

THOMAS JONES, *P. J. P.* [SEAL.]

Endorsement on the foregoing, as follows:

"This is the paper, marked (C,) referred to by the witness James Lyons, on his accompanying deposition, and examined by him when he deposed.

P. V. DANIEL, Jr.,
U. S. commissioner."

Document marked "D," annexed to the foregoing deposition of James Lyons, and referred to by him.

This indenture, made and entered into this sixteenth day of January, in the year of our Lord one thousand eight hundred and forty-six, between James Lyons, of the city of Richmond, of the first part, and Francis Doswell and George H. Doswell, of the county of Hanover, of the second part. Whereas Abner Robinson, late of the city of Richmond, and now deceased, executed to James Lyons a certain deed of trust, bearing date on the fifteenth day of November, eighteen hundred and forty-two, which deed is now recorded in the clerk's office of the county court of Hanover, and thereby conveyed to the said James Lyons, as trustee, among other property, the real estate hereinafter described and conveyed; and whereas the said James Lyons, acting under the authority and in execution of the trust reposed in him by the said deed, did on the fourteenth day of January, in the year eighteen hundred and forty-six, at Goodall's tavern, in the county of Hanover, having previously advertised the time, place, and terms of sale, as prescribed by the said deed, proceed to sell at public auction, to the highest bidder for cash, the said real estate, when the said Francis and George H. Doswell became the purchasers thereof in the gross and not by the acre, at and for the price of fifteen hundred and twenty-five dollars, that being the highest bid. Now, therefore, this indenture witnesseth, that the said James Lyons, for and in consideration of the sum of fifteen hundred and twenty-five dollars, lawful money of Virginia, to him in hand paid by the said parties of the second part, at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, has given, granted, bargained, and sold, and doth by these presents

give, grant, bargain, sell, and convey, unto the said Francis Doswell and George H. Doswell all the right, title, and interest conveyed to him, the said James Lyons, by the said Abner Robinson, as aforesaid, in and to a certain tract, *in and to a certain tract*, piece, or parcel of land, situate, lying, and being in the county of Hanover, called Cole's Hill, containing by estimation seven hundred and fifty acres, be the same more or less, with the buildings thereon, and the appurtenances thereunto belonging: to have and to hold the said tract, piece, or parcel of land, with the buildings thereon and the appurtenances thereunto belonging, unto them, the said Francis Doswell and George H. Doswell, their heirs and assigns, to their only proper use and behoof forever; and the said James Lyons, for himself and his heirs, doth hereby covenant and agree, to and with the said Francis Doswell, and George H. Doswell, their heirs and assigns, that he, the said James Lyons, and his heirs, the title to the said tract or parcel of land, unto them, the said Francis Doswell and George H. Doswell, their heirs and assigns, do by these presents warrant and will forever defend, against the claims of him, the said James Lyons, and his heirs, and all other persons, claiming by, through, or under him, but against the claim of no other persons whomsoever.

In testimony whereof the parties to this indenture have hereunto set their hands and affixed their seals the day and year first herein before written.

JAMES LYONS, [SEAL.]
Trustee.
[SEAL.]
[SEAL.]

Received of George H. Doswell, fifteen hundred and twenty-five dollars, the purchase money in the within deed mentioned.

JAMES LYONS.

At a court of quarterly session held for Hanover county at the court-house on Wednesday, the 29th of July, 1846, this deed was acknowledged by James Lyons, trustee, a party thereto, and is ordered to be recorded.

Test: WM. O. WINSTON, *C. H. C.*

STATE OF VIRGINIA, *Hanover county, to wit:*

I, William O. Winston, clerk of the county court of Hanover, in the State aforesaid, do hereby certify, that the foregoing is a true transcript from the records of the said court.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said county, the 23d day of April, 1850.

[SEAL.] WM. O. WINSTON, *C. H. C.*

STATE OF VIRGINIA, *Hanover county, to wit:*

I, Charles P. Goodall, presiding justice of the peace of the county court of the said county, in the State aforesaid, do hereby certify, that

William O. Winston, who hath given the preceding certificate, is clerk of the said court, and that his said attestation is in due form.

Given under my hand and seal the 23d day of April, 1850.

C. P. GOODALL. [SEAL.]

Endorsement on the foregoing indenture and certificates, as follows: "This is the paper, marked "D," referred to by the witness, James Lyons, in his accompanying deposition, and examined by him when he deposed.

P. V. DANIEL, JR.,
U. S. commissioner.

No. 5.

Offered by plaintiff, and read 20th May, 1850.

J. W. GURLEY, *Cl'k.*

State of Louisiana, second district court of New Orleans.

Succession of James P. Wilkinson.

Petition for curatorship filed 23d April, 1846.

To the honorable the probate court of the city and parish of New Orleans. The petition of Edmund Randolph, residing in the city of New Orleans, humbly shews, that James P. Wilkin , who lately resided in the State of Virginia, but who is now deceased, left property, rights, and credits in the city of New Orleans, and that his said estate is now vacant and unadministered, and that petitioner is a creditor of the said Wilkinson or his estate. Wherefore petitioner prays, that in consideration of the affidavit annexed and the premises, that, after due advertisement and legal proceedings had, an inventory be made of the property belonging to said succession according to law, and that petitioner be appointed the curator of said vacant succession on complying with the requisites of the law, and for all other and further general relief in the premises, &c., &c.

Signed, ROBT. MOTT,
Atty. for petitioner.

Order.

Let petitioner's application for letters of curatorship be advertised accordingly. New Orleans, 23d April, 1846.

Signed, J. BERMUDEZ, *Judge.*

Affidavit.—Filed April 23, 1846.

Personally appeared Edmund Randolph, who being sworn, desposes and says: That he has reason to believe that James P. Wilkinson died during the year 1845, in the State of Virginia, and that he founds this belief on the fact that he remitted money to said Wilkinson, and received no answer, but was informed, through letter annexed, that the

money had been paid to the legal representatives of said Wilkinson, who was dead; and moreover, from having had the fact so represented to him by persons connected with him in business, and whom he believes had correct information.

Signed, EDMUND RANDOLPH.

Sworn to and subscribed before me, this 22d day of April, 1846.

Signed, O. P. JACKSON, *Judge*.

Letter.

FARMER'S BANK OF VIRGINIA,
Richmond, April 11, 1846.

PETER CONREY, ESQ., *New Orleans:*

DEAR SIR: I have received your letter of 30th ulto. inquiring whether your check on this bank, No. 8, July 7, '45, for $430.60, favor of James P. Wilkinson, has been paid. It was presented and placed to the credit of Jas. P. Wilkinson, whose legal representative has drawn the money since his death.

Very respectfully, your ob't serv't,

J. G. BLAIR, *Cas.*

(Addressed) Peter Conrey, jr., esq., New Orleans.

Personally appeared before me, Asberry Crenshaw, who deposed and said: That he has for many years been familiar with the handwriting of John G. Blair, of Richmond, Virginia, who purports to have signed the above letter, and he believes it to be the handwriting of said John G. Blair. He also deposes that he has understood that Mr. James P. Wilkinson is dead, and that he died, according to his information, which was verbal, and derived from a Mr. Tucker, now living in this State, about some time in the latter part of last summer. He further deposes that he has reason to believe Mr. Wilkinson is dead, from his not answering a letter with a remittance made by Crenshaw & Co. to him in the month of June last.

Signed, ASBERRY CRENSHAW.

Personally appeared before me, George Pollard, who deposed and said, that he has examined the signature of J. G. Blair to the foregoing letter, and that he believes it to be genuine.

Signed, GEORGE POLLARD.

Sworn to and subscribed before me, this 22d April, 1846.

Signed, ALEXANDER WALKER,
Associate judge, city court New Orleans, Louisiana.

Petition.—Filed 6th May, 1846.

To the honorable the probate court of the city and parish of New Orleans:

The petition of Edmund Randolph, residing in New Orleans, humbly shews, that due advertisement has been made of his application

to be appointed curator of the vacant succession of James P. Wilkinson, deceased, and no opposition having been made thereto, he prays to be confirmed in said office of curator on complying with the requirements of the law, and that an attorney be appointed to represent the absent heirs, and an inventory made of the effects of said succession; and for such other and further orders as may be necessary and proper. The premises, &c.

Signed, ROBT. MOTT,
Atty. for petitioner.

Order.

Due and public notice having been given of petitioner's application for letters of curatorship, and no opposition having been made thereto filed: It is ordered that petitioner be appointed curator of the estate on his complying with the requisites of law. Let the inventory within prayed for be taken by G. R. Stringer, esq., not. pub., in the presence of all parties interested, or them duly called, and also in the presence of A. Pitot, esq., attorney and counsellor at law, hereby appointed to represent the absent heirs of the deceased; and let P. Allard and P. A. Charbonnett, be appointed appraisers to value the property to be inventoried.

New Orleans, May 6, 1846.

Signed, J. BERMUDEZ, *Judge*.

Oath of appraisers, 8th May, 1846.—*Succession of J. P. Wilkinson.*

STATE OF LOUISIANA,
City of New Orleans.

In the court of probates, in and for the parish and city of New Orleans.

Before me, Pierre M. Bertin, deputy register of wills in and for the parish and city of New Orleans, personally came and appeared P. Allard and P. A. Charbonet, who solemnly swear that they will well and faithfully perform all and singular the duties of appraisers, to value the property to be inventoried in the succession of J. P. Wilkinson. So help them God.

(Signed) P. ALLARD,
(Signed) P. A. CHARBONNET.

Sworn to and subscribed before me, New Orleans, this 8th day of May, 1846.

(Signed) P. M. BERTIN,
Dy. register of wills.

Petition.—Filed 19th May, 1846.

To the honorable the probate court for the city and parish of New Orleans:

The petition of Edmund Randolph, residing in New Orleans, humbly shows, that an inventory has been duly and legally made, of the

property of the succession of James P. Wilkinson, deceased, which amounts to $2,603 99½, and is duly returned herewith. Wherefore he prays that the said inventory be homologated and filed, and that petitioner be allowed to give John E. Townes and J. P. Walden security as the law directs, and for letters of administration, and for all other and further orders and decrees as may be necessary in the premises.

(Signed) ROBT. MOTT,
Attorney for petitioner.

I have no objection to the security offered. N. O., May 19, 1846.
(Signed) ARMAND PITOT,
Attorney for abs. heirs.

J. P. Walden being sworn says, that he is worth the sum of sixteen hundred and thirty dollars, all his debts paid.
(Signed) J. P. WALDEN.

Sworn to and subscribed before me, this 19th May, 1846.
(Signed) P. M. BERTIN,
Deputy register of wills.

John P. Townes being duly sworn says, that he is worth the sum of sixteen hundred and thirty dollars, all his debts paid.
(Signed) JOHN E. TOWNES.

Sworn to and subscribed before me, this 19th May, 1846.
(Signed) P. M. BERTIN,
Deputy register of wills.

Order.

Let the accompaning inventory be filed, approved, and homologated, and let letters of curatorship be delivered to petitioner, on his giving bond and security in the sum of three thousand two hundred and sixty dollars, with J. P. Walden and John E. Townes as his securities, said bond conditioned as the law directs. New Orleans, 19th May, 1846.

(Signed) J. BERMUDEZ, *Judge.*

Bond.

THE STATE OF LOUISIANA,
City of New Orleans, court of probates.

Know all men by these presents, that we, Edmund Randolph, as principal, and J. P. Walden and John E. Townes, as securities, of the State of Louisiana, are held and firmly bound unto Joachim Bermudez, judge of the court of probates, in and for the city and parish

to be appointed curator of the vacant succession of James P. Wilkinson, deceased, and no opposition having been made thereto, he prays to be confirmed in said office of curator on complying with the requirements of the law, and that an attorney be appointed to represent the absent heirs, and an inventory made of the effects of said succession; and for such other and further orders as may be necessary and proper. The premises, &c.

Signed, ROBT. MOTT,
Atty. for petitioner.

Order.

Due and public notice having been given of petitioner's application for letters of curatorship, and no opposition having been made thereto filed: It is ordered that petitioner be appointed curator of the estate on his complying with the requisites of law. Let the inventory within prayed for be taken by G. R. Stringer, esq., not. pub., in the presence of all parties interested, or them duly called, and also in the presence of A. Pitot, esq., attorney and counsellor at law, hereby appointed to represent the absent heirs of the deceased; and let P. Allard and P. A. Charbonnett, be appointed appraisers to value the property to be inventoried.

New Orleans, May 6, 1846.

Signed, J. BERMUDEZ, *Judge.*

Oath of appraisers, 8th May, 1846.—Succession of J. P. Wilkinson.

STATE OF LOUISIANA,
City of New Orleans.

In the court of probates, in and for the parish and city of New Orleans.

Before me, Pierre M. Bertin, deputy register of wills in and for the parish and city of New Orleans, personally came and appeared P. Allard and P. A. Charbonet, who solemnly swear that they will well and faithfully perform all and singular the duties of appraisers, to value the property to be inventoried in the succession of J. P. Wilkinson. So help them God.

(Signed) P. ALLARD,
(Signed) P. A. CHARBONNET.

Sworn to and subscribed before me, New Orleans, this 8th day of May, 1846.

(Signed) P. M. BERTIN,
Dy. register of wills.

Petition.—Filed 19th May, 1846.

To the honorable the probate court for the city and parish of New Orleans:

The petition of Edmund Randolph, residing in New Orleans, humbly shows, that an inventory has been duly and legally made, of the

property of the succession of James P. Wilkinson, deceased, which amounts to $2,603 99½, and is duly returned herewith. Wherefore he prays that the said inventory be homologated and filed, and that petitioner be allowed to give John E. Townes and J. P. Walden security as the law directs, and for letters of administration, and for all other and further orders and decrees as may be necessary in the premises.

(Signed) ROBT. MOTT,
Attorney for petitioner.

I have no objection to the security offered. N. O., May 19, 1846.
(Signed) ARMAND PITOT,
Attorney for abs. heirs.

J. P. Walden being sworn says, that he is worth the sum of sixteen hundred and thirty dollars, all his debts paid.
(Signed) J. P. WALDEN.

Sworn to and subscribed before me, this 19th May, 1846.
(Signed) P. M. BERTIN,
Deputy register of wills.

John P. Townes being duly sworn says, that he is worth the sum of sixteen hundred and thirty dollars, all his debts paid.
(Signed) JOHN E. TOWNES.

Sworn to and subscribed before me, this 19th May, 1846.
(Signed) P. M. BERTIN,
Deputy register of wills.

Order.

Let the accompaning inventory be filed, approved, and homologated, and let letters of curatorship be delivered to petitioner, on his giving bond and security in the sum of three thousand two hundred and sixty dollars, with J. P. Walden and John E. Townes as his securities, said bond conditioned as the law directs. New Orleans, 19th May, 1846.
(Signed) J. BERMUDEZ, *Judge.*

Bond.

THE STATE OF LOUISIANA,
City of New Orleans, court of probates.

Know all men by these presents, that we, Edmund Randolph, as principal, and J. P. Walden and John E. Townes, as securities, of the State of Louisiana, are held and firmly bound unto Joachim Bermudez, judge of the court of probates, in and for the city and parish

of New Orleans, or to his successors in office, in the sum of three thousand two hundred and sixty dollars, current money of the United States of America, which we promise to pay to him or his successors in office, for the faithful performance of which we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, renouncing all benefit, or division, or discussion whatever.

Sealed with our seals this 19th day of May, in the year of our Lord 1846, and the 70th of the independence of the United States of America.

The condition of the above obligation is such, that if the above bounden Edmund Randolph, curator of the estate of the late James P. Wilkinson, deceased, does well and truly, according to law, administer the same, and further does make and render a true, just, and perfect account of his actions and doings when thereunto lawfully required, either by the aforesaid judge or his successors in office, agreeably to law, or by the heirs of the said deceased or their lawful attorney or attorneys, or by the duly appointed or authorized executor or executors of the last will and testament *was* by the said deceased made, then this obligation to be void, or else to remain in full force and virtue.

In witness whereof we have hereunto set our hands and seals, this day and year first above written.

(Signed) EDMUND RANDOLPH,
(Signed) J. P. WALDEN,
(Signed) JNO. E. JONES.

In presence of—
(Signed) P. M. BERTIN,
Deputy register of wills.

Oath of curator, 19*th May*, 1846.

STATE OF LOUISIANA,
City of New Orleans:

In the court of probates, in and for the city and parish of Orleans.
Succession of James P. Wilkinson.

Before me, Pierre M. Bertin, deputy register of wills in and for the parish and city of New Orleans, personally came and appeared Edmund Randolph, who solemnly swears that he will well and faithfully perform all and singular the duties of curator of the succession of James P. Wilkinson, deceased. So help him God.

(Signed) EDMUND RANDOLPH.

Sworn to and subscribed before me, New Orleans, this 19th day of May, 1846.

(Signed) P. M. BERTIN,
Dy. reg. of wills.

Petition filed 28th May, 1846.

To the honorable the judge of the court of probates for the city and parish of New Orleans, the petition of Edmund Randolph, residing in New Orleans, and curator of the succession of James P. Wilkinson, deceased, humbly shews:

That since the inventory was taken herein, he has discovered property, rights, and credits within the jurisdiction of this honorable court; wherefore he prays for a supplemental inventory to be made, and for general relief, &c.

(Signed) ROBT. MOTT,
Attorney for curator.

Order.

Let the supplemental inventory within prayed for be made by G. R. Stringer, esq., notary public, in the presence of all parties interested, or them duly called; and let P. Allard and P. A. Charbonet be appointed appraisers to value the property to be inventoried.

New Orleans, 28th May, 1846.

(Signed) J. BERMUDEZ, *Judge.*

Petition filed 2d July, 1846.

To the honorable the second district court of New Orleans, the petition of Edmund Randolph, residing in New Orleans, curator of the succession of James P. Wilkinson, deceased, humbly shews:

That in conformity with the order of the probate court of the city and parish of New Orleans, bearing date the 28th day of May, 1846, a supplemental and additional inventory has been made after due appraisement of the property of the succession not previously inventoried, and which is hereto annexed; wherefore petitioner prays that the same may be homologated, and all such further orders given and proceedings had as the nature of the cause may require, &c.

(Signed) ROBT. MOTT,
Attorney for the curator.

I have no objection to the prayer of this petition.

ARMAND PITOT,
Attorney for absent heirs.

Affidavit.

H. D. Ogden, being duly sworn, says, that he is worth the sum of three hundred dollars over and above his debts.

(Signed) H. D. OGDEN.

Sworn to and subscribed before me, this 2d July, 1846.

(Signed) P. M. BERTIN,
Deputy clerk.

Order.

Let this supplemental inventory be filed, approved, and homologated, *an* let the petitioner be authorized to give bond in the sum of three hundred dollars, with H. D. Odgen as his security; said bond to be conditioned as the law directs.

New Orleans, 2d July, 1846.

(Signed) E. A. CANON, *Judge*.

Letters, 25th January, 1847.

THE STATE OF LOUISIANA,
Second district court of New Orleans.

This shall certify, to all whom it may concern, that on the 23d day of April, 1846, and the 70th of the independence of the United States of America, an application was made to the honorable judge of the late court of probates by Edmund Randolph, praying that he might be appointed curator to the vacant estate of James P. Wilkinson, deceased. Now, know ye, that Edmund Randolph has been, and that he is hereby, appointed curator to the said vacant estate, and that he has fulfilled all the requisites of the law.

Witness our hand and the seal of the said second district court, this 25th day of January, A. D. 1847, and the 71st of the independence of the United States.

(Signed) E. A. CANON, *Judge*,
(Signed) P. M. BERTIN,
Deputy clerk.

Petition filed 13th April, 1847.

To the honorable the second district court of New Orleans, the petition of Edmund Randolph, residing in New Orleans, curator of the succession of James P. Wilkinson, deceased, humbly shews:

That petitioner has collected all the property and assets of the estate that he was able, and has this day made and herewith presents his final tableau of distribution of the said estate, which he files in the said succession; wherefore he prays that due publication be made of said tableau, after which that the same be approved and homologated and the funds distributed in accordance therewith, and for such other and further relief as the nature of the case may require, &c.

(Signed) ROBT. MOTT.

Order.

Let public notice be given to the creditors of this estate, and to all others therein interested, to show cause, within ten days from notification hereof, why the within account should not be approved and homologated, and the funds distributed accordingly.

New Orleans, 13th April, 1847.

(Signed) E. A. CANON, *Judge*.

Account filed 13*th April*, 1847.

Dr. Final tableau of the distribution of the estate of James P. Wilkinson, deceased.		Cr.
Paid cost of protest of 2 notes		$6 00
" G. R. Stringer, notary public, for inventory		30 00
" Bacon Tait one-third of the amount collected of the register of wills, being his proportion of said sums in consequence of his judgment against De Ende		245 86
" register of wills, costs.		
" printing		15 00
" appraisers		8 00
" commissions to curator 2½ per cent. on $2,176 96		54 42
" clerk's costs, Boole		5 00
" attorney of absent heirs, Arm'd Pitot		50 00
" Robert Mott, attorney of the curator for this estate, and in attending to suit vs. executor of H. D. Ende		250 00
Cr. by amount collected of Power's heirs	500 00	
" by amount collected of register of wills, which was deposited by Power's heirs	737 62	
" amount collected by A. M. Buchanan, arising from sales of Power's estate	939 34	
	$2,176 96	

There being no creditors of the estate, this balance of is to be paid to Mrs. Wilkinson, widow and universal legatee of James P. Wilkinson, deceased, who will claim the same after paying all costs of this homologation.

New Orleans, 13th April, 1847.

(Signed) EDMUND RANDOLPH,
Curator, &c.

Petition of widow, filed 15*th April*, 1847.

To the honorable the second district court of New Orleans, the petition of Mrs. Catherine Wilkinson, wife of Nathaniel B. Hill, herein aided and assisted by her said husband, both of whom reside in Richmond, in the State of Virginia, humbly shews:

That petitioner is the universal heir and legatee of James P. Wilkinson, deceased, as well as administratrix of said Wilkinson's estate, as will more fully appear by the duly certified and authenticated copy of the will of said Wilkinson, which was duly probated in Virginia, where the said Wilkinson resided and had his domicil at the time of his decease, and of the letters of administration to her duly granted by the proper court, all of which are hereunto annexed, and made part thereof;

that the petitioner was the wife of said James P. Wilkinson during his lifetime, and since his death she has married her present husband, Nathaniel B. Hill; that the succession of said James P. Wilkinson has been opened in this honorable court, and Edmund Randolph, esqr., been appointed curator thereof; that said curator has proceeded to administer said succession, and has collected large sums of money belonging to the same, and filed a final tableau of distribution of the funds of the same, in which he shows a balance belonging to the petitioner as the heir and universal legatee of the said James P. Wilkinson, deceased; that besides these funds the said Randolph has certain notes described in the inventory, all of which petitioner prays may be paid and delivered to her in virtue of her heirship as universal legatee, and that she be duly authorized to receive and collect the same, and any and all other assets, effects, or moneys belonging to her or her said testator in the State of Louisiana.

Wherefore she prays that the said Randolph and A. Pitot, attorney for absent heirs, be cited to appear and answer this petition, and that he be ordered to deliver such funds and effects as are in his hands to petitioner, after due compliance with all legal requirements; and that petitioner be recognised as the heir and universal legatee of said James P. Wilkinson, deceased; and for such other and further relief as the nature of the case may require, &c.

Signed, CATHARINE HILL.

I authorize my wife to act in the aforegoing matter.

Signed, NATHANIEL B. HILL.

Service accepted. N. Orleans, April 17th, 1847.

Signed, ARMAND PITOT,
Attorney for absent heirs.

Service accepted for curator.

Signed, ROBT. MOTT, *Attorney.*

Document, will, &c., filed 15th April, 1847.

STATE OF VIRGINIA,
Chesterfield county, to wit:

Whereas at a circuit superior court of law and chancery, held for Chesterfield county, at the court-house thereof, on the 31st day of October, A. D. 1845, and in the 70th year of the commonwealth, a writing, purporting to be the last will and testament of James P. Wilkinson, deceased, was produced in court for probate; and Nathaniel B. Hill and Nathaniel Glinn, who, being sworn for that purpose, deposed, that they are well acquainted with the handwriting of the testator, having often seen him write, and that the whole of the said writing was written by the said James P. Wilkinson, deceased. Where-

upon it was ordered that the said writing be established and recorded as the last will and testament of the said James P. Wilkinson, deceased; which said writing is in the words and figures following, to wit:

May 15th, 1843.

Due for 12 months from Col. Burfoot; paid.
Do. Thomas Gills - - - - - - $159
In the hands of James Lyons, Seymour P. Veal's debt $3,500
Abner Robinson's debt, in do. - - - 800
4,300
In Joe Allen's hands, due from A. Robinson - 210
For commission on sale, Puckett's property, and half Strange's horses - - - - - 60
270
Due from Lewis Graves, of Orange, two colts, 1 and 2 years old; 1 mare and 2 colts, 2 and 3 years old.
Do. from Jack Jones 1 mare and two horses, colts.
At Curchman's, in Augusta county, one young filley.
Due from A. Robinson's estate, Louisiana, for horses - 200
In Silas ——— hands, on Wm. Strange, my act. for - 26
Due me from jail—nothing.
Capt. Bardon owes for Joe; paid.
Due from Sands, clerk of the court - - - - 50

I leave my bonds and receipts, as all above, *I leave* to my wife, and with her *and* every thing *thing* else I have, forever.

J. P. W.

Due from Wm. Goodwin, for Thomas Jackson - - $18
Due from John Wilkinson, for horse and cart - - 115

And on the motion of Catharine Wilkinson, widow and relict of the said James P. Wilkinson, deceased, who made oath according to law, and with John Wilkinson and Ambrose White, her securities, who justified as to their sufficiency, entered into and acknowledged a bond in the penalty of ten thousand dollars, conditioned as the law directs, certificate was granted the said Catharine Wilkinson for obtaining, in due form, letters of administration on the estate of the said James P. Wilkinson, deceased, with his will annexed; and whereas, by an act of the general assembly of Virginia, passed on the 3d day of March, A. D. 1819, entitled "An act reducing into one the several acts concerning wills, the distribution of intestates' estates, and the duty of executors and administrators," it is, among other things, provided that the clerks of the courts shall, when required by an administrator, make out letters of administration in due form, in the name of the first justice or presiding judge of the court, which letters shall be signed by such judge or justice, and sealed with the court's seal.

Wherefore I, John P. Clopton, judge of the said circuit superior court of law and chancery, for the county of Chesterfield, in pursuance of the above recited act, do issue these letters of administration, and do

hereby authorize and empower the said Catharine Wilkinson well and truly to collect and administer all and singular the goods, chattels, and credits of the said James P. Wilkinson, deceased, in all matters and things concerning the same, according to the true intent and meaning of the said will annexed, and according to law; hereby requiring the said administratrix to make and exhibit, unto the said circuit superior court of law and chancery, a true and perfect inventory of the said goods, chattels, and credits, and also to make a just and true account of her actings and doings therein, when thereto lawfully required.

Given under my hand and seal of the said court, this 10th day of August, in the year 1846, and in the 71st year of the commonwealth.

Signed, JOHN P. CLOPTON.

Document—marriage certificate, filed 15th April, 1847.

I hereby certify, that, in pursuance of a license, issued by the clerk of the county *clerk* of King William, I this day joined together in the holy *estate* of matrimony Nat. B. Hill and Catharine Wilkinson, of said county. Given under my hand, this 15th day of December, 1846.

Signed, J. O. TURPIN,

A legally authorized minister of the Gospel.

To the clerk of King William county court.

In King William county clerk's office, 22d February, 1847, this certificate was received, and is truly recorded.

Signed, RO. POLLARD, *Clerk.*

STATE OF VIRGINIA,

King William county, to wit:

I, Robert Pollard, clerk of the county aforesaid, in the State aforesaid, do hereby certify, that the foregoing is a true transcript from the record of the court of said county.

In testimony whereof I hereto set my hand and annex the seal of the said county, this 13th day of March, A. D. 1847, and of American independence the 71st.

Signed, RO. POLLARD,

Clerk of King William county court.

VIRGINIA, *King William county, to wit:*

I, Thomas Dabney, presiding justice of the peace of the county of King William, in the State of Virginia, do hereby certify, that Robert Pollard, who hath given the preceding certificate, is clerk of the said court, and that his said attestation is in due form. Given under my hand, this 22d day of March, 1847.

Signed, THOMAS DABNEY,

Presiding justice of the peace for King William county.

Opposition of the State of Louisiana, filed 20th April, 1847.

Succession of James P. Wilkinson. The opposition of Eugene Musson and J. J. Pepin, of counsel for the treasurer of the State of Louisiana, to the final tableau of distribution rendered by Edmund Randolph, curator of the vacant estate of the late James P. Wilkinson, respectfully shows: That they oppose the homologation of said tableau, for this, that the balance of said estate is granted to one Catharine Hill, whose just claim to it is totally unsupported by any kind of proof; that they deny that said Catharine Hill be entitled to said balance, and that they require the strictest proof of the alleged existing between said Catharine Hill and deceased; that the whole of the assets, such as inventoried, do not appear on said tableau.

Wherefore opponents pray, that the above mentioned tableau, filed by the curator aforesaid, be so amended as to reject the claim of said Catharine Hill; that said assets, such as inventoried, the curator aforesaid, and that he be ordered to deposite the balance of said estate into the hands of the treasurer of the State. They further pray for all other and general relief.

(Signed) E. MUSSON & PEPIN,
Attorneys for State treasurer.

Affidavit for commission, filed 28th April, 1847.

Personally appeared Mrs. Catherine Hill, who, being duly sworn, deposes and says, that the testimony of William C. Allen and Nathaniel Glenn is necessary and material for the trial of the opposition to the tableau filed by the curator of the succession of James P. Wilkinson.

(Signed) CATHERINE HILL.

Sworn to and subscribed before me, this 28th day of April, 1847.

(Signed) GEORGE Y. BRIGHT,
Second justice of the peace, for the parish of Orleans, in the State of Louisiana.

Order for commission, 30th April, 1847.

Succession of James P. Wilkinson. On motion of Robert Mott, esq., of counsel for Edmund Randolph, curator, and of A. A. Fraser, esq., of counsel for Mrs. Catherine Hill, it is ordered, that a commission issue to any judge or justice of the peace, or commissioner, at Richmond, Virginia, to take the testimony of witnesses, whose names are stated in the affidavit on file, and that thirty days be allowed for the return thereof.

Testimony filed 14th May, 1847.

Succession of James P. Wilkinson. Widow of J. P. Wilkinson and claimants offer in evidence, will of deceased, now filed, and which has

been duly probated in the State of Virginia; also certificate of the marriage between the widow of deceased and her present husband, N. B. Hill, now filed.

Nathaniel Mathews, witness for the widow et al., sworn, says that he knew deceased personally for the last ten years; he died in Richmond, Virginia. Witness has also known the widow of the deceased for the last 10 years, before and since the death of J. P. Wilkinson; after Wilkinson's death she married Mr. Hill; her name before her marriage with Hill was Mrs. Catherine Wilkinson; witness has seen her since her arrival in New Orleans; she is the same lady that he knew in Virginia, and who is now claiming this estate; Wilkinson resided in the county of Chesterfield, but he died in the city of Richmond, at Bell Tavern.

Cross examined.

Witness says that he knows that Wilkinson was married to the present applicant from common report, and has heard from his acquaintances and also from ladies, that they were married; witness knows the gentleman at whose house they were married, but he does not know the fact himself, as they were married before he became acquainted with them; witness does not know if a registry of marriages is kept by law in Virginia; witness is unmarried, and knows nothing of these matters; he knows that to get married it is necessary to get a license; they are generally married by parsons or ministers of the gospel.

Document offered in evidence, filed 14th May, 1847.

May 15th, 1843.	Due for 12 months from Col. Beurfoot,		paid
	Do. Thomas Gills, do. - -		$159 00
	In the hands James Lyons, Seymour P. Veal's debt - - - -	$3,500 00	
	Abner Robinson's debt, in do. - -	800 00	
			4,300 00
	In J. S. Allen's hands, due from J. Robinson,	210 00	
	For commission on sale of Puckett's property and half Strange's horses - - -	60 00	270 00
	Due from Lewis Graves, of Orange, two colts, 1 and 2 years old, and one mare, and two colts, 2 and 3 years old.		
	Do. from Jack Jones, 1 mare and 2 horses, colts At Churcham's, in Augusta county, 1 young filley.		
	Due from A. Robinson's estate, in Louisiana, for horses - - - - - -		200 00
	In Silas Omohondroe's hands, on William Strange, my account for - - - -		26 00
	Due me from jail nothing.		
	Captain Barder owes for Joe paid.;		
	Due from Sands, clerk of the court - - -		50 00

I leave my bonds and receipts as all above; I leave to my wife and with her, and every thing else I have, forever. J. P. W.

Due from Wm. Goodwin, for Thomas Jackson - - $18 00
Due from John Wilkinson, for horse and cart - - 115 00

In Chesterfield circuit court, October 31, 1845.

A writing, purporting to be the last will and testament of James P. Wilkinson, deceased, was produced in court for probate; and Nathaniel B. Hill and Nathaniel Glinn, being sworn for that purpose, deposed, that they are well acquainted with the handwriting of the said testator, having often seen him write, and that the whole of said writing was written by the said Wilkinson; whereupon, it is ordered, that the said writing be established and recorded as the last will and testament of the said James P. Wilkinson, deceased.

On the motion of Catherine Wilkinson, widow of James P. Wilkinson, who entered into bond with John Wilkinson and Ambrose White, her securities, who justified as to their sufficiency in the penalty of ten thousand dollars, conditioned as the law directs, and took the oath prescribed by law, certificate is granted her for obtaining letters of administration on the estate of James P. Wilkinson, deceased, with the will annexed in due form.

VIRGINIA, *Chesterfield county, to wit:*

I, Parke Poindexter, clerk of the circuit superior court of law and chancery for Chesterfield county, do hereby certify, that the foregoing transcript of the last will and testament of James P. Wilkinson, deceased, duly probated on the 31st October, 1845, and on file in my office, is truly and correctly copied.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court, this 4th day of May, A. D. 1847, and in the 71st year of the commonwealth.

P. POINDEXTER,
Clerk of the cir. sup. court of law and chancery, for Chesterfield county.

VIRGINIA, *Chesterfield county, to wit:*

I, John B. Clopton, only judge of the circuit superior court of law and chancery for Chesterfield county, in the State aforesaid, do certify, that Parke Poindexter, who hath given the preceding certificate, is clerk of the said court; that his said signature is genuine, and that his said attestation is in due form.

Given under my hand, this 5th day of May, in the year 1847.

(Signed) JOHN B. CLOPTON.

Document offered in evidence, filed 14th May, 1847.

I hereby certify, that in pursuance of a license, issued by the clerk

of the county court of King William, I this day joined together, in the holy estate of matrimony, Nathaniel B. Hill and Catherine Wilkinson, of said county.

Given from under my hand, this 15th day of December, 1846.

(Signed) J. O. TURPIN,

A legally authorized minister of the gospel.

To the CLERK of King William county court.

In King William county court, clerk's office, 22d of February, 1847.

This certificate was received, and is truly recorded.

Test: RO. POLLARD, *Clerk.*

STATE OF VIRGINIA,
King William county, to wit:

I, Robert Pollard, clerk of the county court of the county aforesaid, in the State of Virginia, do hereby certify, that the foregoing is a true transcript from the record of the said court.

In testimony whereof I have set my hand, and annex the seal of the said county, this 7th day of May, in the year 1847, and in the 71st year of American independence.

RO. POLLARD,
Clerk of the county court of King William.

VIRGINIA, *King William county, to wit:*

I, Philip Aylett, presiding justice of the peace of the county court of said county, in the State aforesaid, do hereby certify, that Robert Pollard, who has given the preceding certificate, is clerk of the said court, and that his said attestation is in due form.

Given under my hand this seventh day of May, in the year 1847.

(Signed) PHILIP AYLETT.

Judgment, 14*th May*, 1847.

Succession of James P. Wilkinson.

This cause came on this day for trial on the opposition filed by the State to the tableau of the curator, &c.; Robt. Mott for representatives of James P. Wilkinson, E. Musson on behalf of the State, H. D. Ogden for curator. When, after hearing testimony and argument of counsel, it is ordered, adjudged, and decreed, that the opposition filed by the State be dismissed with costs; that the tableau filed by the curator be approved and homologated; that Mrs. Catherine B. Hill, formerly the wife of James P. Wilkinson, deceased, be recognised as universal heir and devisee of said James P. Wilkinson, and put in possession of said succession, and that the curator account for and de-

liver all the property and money belonging to said succession to the said Catherine B. Hill, and the costs of these proceedings be paid by the estate. Signed 26 May, 1847.

(Signed) E. A. CANON, *Judge*.

STATE OF LOUISIANA,
Second district court of New Orleans.

I, Thomas C. Poole, clerk of the second district court of New Orleans, do hereby certify, that the above and foregoing twenty-nine pages do contain a true and complete transcript of the record in the matter of the succession of James P. Wilkinson, deceased, (excepting the inventories,) whose succession was opened in the late probate court in and for the parish and city of New Orleans, the papers of which court have by law been transferred to this court.

In testimony whereof I hereto set my hand and affix the seal of *seal of* said court, in the city of New Orleans, this 9th day of April, in the year of our Lord one thousand eight hundred [SEAL.] and fifty, and in the 74th year of the independence of the United States.

THOMAS C. POOLE, *Clerk*.

I, James N. Lea, sole judge of the second district court of New Orleans, State of Louisiana, do hereby certify, that Thomas C. Poole is clerk of the said court, and that the signature, "Thomas C. Poole," to the foregoing certificate is in the proper handwriting of him, the said clerk; to all his official acts, as such, full faith and credit are due and owing; and I do further certify, that his attestation is in due form of law.

Given under my hand and seal, at the city of New Orleans, on this ninth day of April, in the year of our Lord one thousand eight [SEAL.] hundred and fifty, and the 74th year of the United States of America.

J. N. LEA, *Judge*.

Endorsed: "No. 5 off'd by plaintiff, and read 20th May, 1850."
"J. W. GURLEY, *Clerk*."

No. 6. *Discharge of Isham Puckett, offered in evidence by plaintiff on the trial, and filed February* 18*th*, 1851.

In the United States court, for the eastern district of Virginia, January 12th, 1843.

It appearing to the satisfaction of the court that Isham Puckett, who has heretofore been declared and decreed a bankrupt by this court, having filed a petition praying for a discharge from all his debts and liabilities; and it further appearing that the said Isham Puckett has fully and in every respect complied with all the requirements of the act of Congress, entitled "an act to establish a uniform system of bank-

ruptcy throughout the United States," and no objection being made, or cause shown, by any of the creditors of the said Isham Puckett, why he should not be released and discharged from all his said debts and liabilities, it is adjudged, ordered, and decreed, that the said Isham Puckett be, and he is hereby, declared to be discharged from all his said debts and liabilities, and that a certificate of such discharge be granted to the said Isham Puckett under the seal of this court.

In testimony whereof I have hereunto set my hand, as clerk of the said court, and hereto affix the seal of the said court.

[SEAL.] P. MAYO, *Clerk.*

EASTERN DISTRICT OF VIRGINIA, *to wit:*

I, James D. Halyburton, judge of the United States' court for the eastern district of Virginia, hereby certify, that P. Mayo, who hath given the preceding, is clerk of said court, and that his said attestation is in due form.

Given under my hand this 10th February, 1851.

JAMES D. HALYBURTON.

Evidence offered by the defendant.

No. 1. Will of Wilkinson and its probate.

No. 2. Certificate of marriage of Mrs. Wilkinson to Mr. Nat. B. Hill.

NOTE.—For this evidence offered by defendant, see pages 57 and 58.

After the evidence was offered the plaintiff asked the court to decide, as if instructing a jury upon the evidence:

1st. That if the testator Robinson by his will left four executors, that Joseph Allen and W. R. Johnson, citizens of Virginia, were two of those executors; and if they only qualified in Virginia, in the county of the domicil of the testator; and if the plaintiff upon a valid and subsisting cause of action instituted suit in the Henrico county court, in Virginia, against the only executors of the testator who had qualified; and if the plaintiff obtained judgment regularly in that court, and it was a court of competent jurisdiction to hear and determine said cause; and if the plaintiff, having thus obtained judgment against the only qualified executors of the domicil of the decedent, regularly issued *their* execution on that judgment, and had thereon a return by the sheriff of nulla bona; and if the defendant was also an executor of the same testator appointed by the same will, and as such had taken upon himself the execution of said will according to the laws of Louisiana, where he resided; and if as executor of Robinson the defendant has ample estate of his testator in his hands to pay the debts; and if all these facts are proven and established by the evidence, that then the plaintiff is entitled to recover judgment against the defendant for the amount of the judgment against the executors who qualified in Virginia.

2. That the exemplification of the record and the judgment obtained by the plaintiff against the executors Allen and Johnson, and the return of nulla bona thereon, are evidence against the defendant, a co-executor in Louisiana.

3. That co-executors, unlike co-administrators, are privies in estate, because they derive the same privies over the same estate from the same will; and that under the will of Robinson, which was read, and the proofs of the qualification which were offered in this case, the plaintiff is entitled to recover against the defendant the amount of the judgment obtained by him against the only acting executors of the domicil of the decedent.

4th. That if the plaintiff is not authorized to recover against the defendant on the mere production of the record of the judgment against his co-executors in Virginia, who alone made probate of the will there, and qualified that he is entitled to recover, on proving that the original cause of action on which that judgment was founded was a just, valid, and subsisting demand against the testator Robinson, and the additional fact that the estate in the hands of the executors of the domicil of the testator in Virginia was exhausted, and that the defendant or co-executor has ample estate in his hands in Louisiana.

5. That independent of the record of the judgment in Virginia, the plaintiff has a right to recover against the defendant as executor of Robinson, upon the bond filed and proven, the amount of the balance due on that bond.

6. That the original cause of action on which the judgment in the Henrico county court is established and proven, and a recovery thereon is not barred by the prescriptive laws of Louisiana.

7. That upon all the evidence offered the plaintiff is entitled to a judgment in his favor.

8th. That the suit in Virginia against the co-executors was a judicial interpellation which would stop the running of prescription against the demand which was the cause of action in that suit; all of which the court overruled, and the plaintiff excepted.

And upon the facts proven the defendant asked the court to decide: 1st. That the Virginia judgment against the co-executors was not evidence against the defendant: 2d. That the original cause of action on which that judgment was rendered was barred as to the defendant by prescription: and, 3d. That upon the whole evidence the defendant was entitled to judgment in his favor; to all which plaintiff objected, and the court overruled his objected, and gave the decisions as asked by defendant, and to these several opinions plaintiff excepted.

And the defendant objected to each and all of said propositions, and the court sustained severally the objections of defendant, and refused to decide any one of said propositions as asked by the plaintiff; to each of which several opinions and decisions the plaintiff at the time excepted.

And the court, overruling each and every proposition made by plaintiff, rendered a judgment for the defendant, to which plaintiff excepted.

And now, on this day, the plaintiff asked the court to grant him a new trial in said cause, because, 1st. The court erred in refusing to decide the several legal propositions as asked by plaintiff on the trial. 2. Because the judgment of the court upon the facts proven is against law. 3. The judgment is not authorized or warranted by, but is against, the evidence in the cause. 4th. Because the plaintiff was entitled to recover against the defendant upon the record of the judgment against the co-executors in Virginia alone. 5. Because the plaintiff was entitled to recover upon the proof of the original cause of action on which the judgment in Henrico was founded. 6. Because the decision of the supreme court in the case of Stacy vs. Thruston, relied on by defendant, was decided on technical grounds peculiar to the law in relation to administrators, and so far from controlling the case, is pregnant with an assumption that the law is otherwise in the case of co-executors.

7. Because the plaintiff upon the whole evidence, and the law of the case arising upon that evidence, was entitled to a judgment in his favor. 8th. The court erred in deciding as asked by defendant.

And the court overruled the motion for a new trial, to which the plaintiff excepted.

And the plaintiff now prays that this his bill of exceptions to each and all of the decisions made by the court in this cause, may be now signed, sealed, and enrolled, &c., which is accordingly done.

THEO. H. McCALEB, [SEAL.]
U. S. judge.

"Filed June 19th, 1850, nunc pro tunc, by order of court.

J. W. GURLEY, *Clerk.*

Petition for writ of error—Filed 11th December, 1850.

To the hon. the circuit court of the United States, 5th circuit and eastern district of Louisiana.

CHAS. P. GOODALL
vs. } 1682.
J. W. TUCKER, EXR., &c.

The petition of Chas. P. Goodall respectfully shews, that on the 21st June ult. a final judgment was rendered against him in the above entitled [cause,] and that he believes there is error in the same to his great prejudice. Wherefore he prays that a writ of error be allowed him, returnable to the next term of the Supreme Court, on his furnishing bond, with satisfactory security, conditioned according to law, and for such sum as the court may determine.

G. DUNCAN,
And ROB. MOTT, *Atty's.*

And on the 11th day of December, 1850, an order was made granting a writ of error, and entered in the minutes as follows:

CHAS. P. GOODALL
vs.
J. W. TUCKER, exr., &c. } 1682.

In vacation.

On motion of Robert Mott, esqr., attorney for plaintiff, and on suggesting to the court that the said plaintiff feels aggrieved by the judgment herein rendered on the 21st day of June last, and on his filing his petition praying for a writ of error, it is ordered, that the same be allowed as prayed on his giving bond with good and sufficient security in the penal sum of five hundred dollars, conditioned according to law.

Bond—January 18th, 1851.

Know all men by these presents, that we, Charles P. Goodall as principal, and A. A. Fraser, as surety, are held and firmly bound unto Joseph W. Tucker, executor of Abner Robinson, deceased, in the full and just sum of five hundred dollars, to be paid to the said J. W. Tucker, executor, &c., his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this 18th day of January, in the year of our Lord one thousand eight hundred and fifty-one. Whereas lately, at a circuit court of the United States, 5th judicial circuit, holding sessions in and for the eastern district of Louisiana, in a suit depending in said circuit court, wherein Charles P. Goodall is plaintiff, and Joseph W. Tucker, executor, &c., is defendant, judgment was rendered against the said Charles P. Goodall, plaintiff; and the said Charles P. Goodall having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court to reverse the judgment in the aforesaid suit, and a citation directed to the said Joseph W. Tucker, executor, &c., citing and admonishing him to be and appear at a Supreme Court of the United States to be holden at Washington the first Monday of December next: Now, the condition of the above obligation is such, that if the said Chas. P. Goodall shall prosecute his writ to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

CHAS. P. GOODALL, [L. S.]
By ROBT. MOTT *MOTT*,
His attorney at law.
A. A. FRASER. [SEAL.]

Sealed and delivered in the presence of—

"Approved." THEO. H. McCALEB, *U. S. judge.*

"Filed 18th January, 1851."

"J. W. GURLEY, *Clerk.*"

[REC. CLXIII, D. T. 1851.]—8

United States of America, circuit court of the United States, fifth circuit and eastern district of Louisiana.

CLERK'S OFFICE:

I, John W. Gurley, clerk of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, do hereby certify, that the foregoing 65 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of Charles P. Goodall, plaintiff, vs. Joseph W. Tucker, executor, &c., defendant, No. 1682 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 28th day of February, A. D. 1851.

[SEAL.] J. W. GURLEY, *Clerk*.

I, Theodore H. McCaleb, United States judge for the eastern district of Louisiana, do hereby certify, that John W. Gurley, whose name is signed to the above certificate, as clerk of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 28th day of February, A. D. 1851.

THEO. H. McCALEB. [SEAL.]

The United States of America, to Joseph W. Tucker, executor of Abner Robinson, deceased, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, wherein Charles P. Goodall is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this twentieth day of January, in the year of our Lord one thousand eight hundred and fifty-one.

THEO. H. McCALEB,
U. S. judge.

Marshal's return.

Received 20th January, 1851, and on the 21st day of January, 1851, served a copy of the within citation in error on Miles Taylor, esq., at-

torney for defendant, in person at New Orleans, and returned 22d January, 1851.

N. W. BUTLER,
Deputy United States marshal.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the judges of the circuit court of the United States, in and for the 5th circuit, and holding sessions for the eastern district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between Charles P. Goodall and Joseph W. Tucker, executor of Abner Robinson, deceased, a manifest error hath happened, to the great damage of the said Charles P. Goodall, as by his complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable , chief justice of the said Supreme Court of the United States, this twentieth of January, in the year of our Lord one thousand eight hundred and fifty-one.

J. W. GURLEY,
Clerk of the United States circuit court,
and eastern district of Louisiana.